

Rules of the Iowa Merit System

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PERSONNEL DEPARTMENT[581]

[Created by 1986 Iowa Acts, Senate File 2175]
 [Merit Employment Department(570) prior to July 1, 1986]

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581-1.1(19A) Definitions. "Absence without leave" means any absence of an employee from duty without specific authorization.

"Act" means Iowa Code chapter 19A creating the department of personnel. "Agency" means a department, independent agency, or statutory office provided for in the Iowa Code section 7E.2.

"Appointing authority" means the appointed or elected chief administrative head of a department, commission, board, independent agency, or statutory office or that person's designee. "Base pay" means a fixed rate of pay for an employee that is exclusive of shift or educational differential, special or extraordinary duty pay, leadworker pay, or any other additional special pay.

"Call back pay" means extra pay for eligible employees who are directed by the appointing authority to report back to work outside of their regular scheduled work hours that are not contiguous to the beginning or the end of their scheduled work hours.

"Career executive program" means that program which provides for permanent employees in positions covered by merit system provisions to apply for and to be used as a source of candidates for executive level positions not covered by merit system provisions.

"Certification" means the referral of available names from an eligible list to an agency for the purpose of making a selection in accordance with these rules. "Certified disability program" means that program covering persons with disabilities who have been certified by the vocational rehabilitation division of the department of education or the department for the blind as being able to perform the duties of a job class without participation in examinations used for the purpose of ranking qualified applicants on nonpromotional eligible lists.

"Class" means one or more positions so similar in duties, responsibilities, and qualifications that each may be assigned to the same job title and pay plan. "Classification plan" means the printed list of job classifications and the related elements assigned to each. The classification plan is published annually by the department and revised as necessary.

"Commission" means the Iowa personnel commission, composed of five volunteer citizens appointed by the governor and confirmed by the senate for six-year terms. "Compensatory leave" means leave accrued as a result of overtime, call back, standby, holiday, or holiday work.

"Confidential employee" means for purposes of merit system coverage the personal secretary of an elected official of the executive branch or a person appointed to fill a vacancy in an elective office, the chair of a full-time board or commission, or the director of a state agency; as well as the staff in the office of the auditor of the state, and the staff in the department of justice except those reporting to the administrator of the consumer advocate division. "Confidential employee" means for purposes of collective bargaining any employee who works for the department, who has access to information subject to use in collective bargaining negotiations, or who works in a close continuing relationship with representatives associated with negotiating collective bargaining agreements on behalf of the state, as well as the personal secretary of an elected official of the executive branch or a person appointed to fill a vacancy in an elective office, the chair of a full-time board or commission, or the director, deputy director, or division administrator of a state agency.

"Demotion" means the change of a nontemporary employee from one class to another having a lower pay grade. Demotions of permanent employees may be disciplinary, in lieu of layoff,

*Objection filed 12/2/86, see "Objection, 1.1" following.

or voluntary. Demotions of probationary employees may be disciplinary or voluntary.

"Department" means the Iowa department of personnel.

"Director" means the director of the Iowa department of personnel or the director's designee.

"Double spouse" means a husband and wife both employed by the state of Iowa.

"Examination" means the further screening of persons who meet the minimum qualifications for a job classification in order to have their names and scores placed on eligible lists.

"Grievance" means an expressed difference, dispute, or controversy between an employee and the appointing authority, with respect to circumstances or conditions of employment.

"Health care provider" means a doctor of medicine or osteopathy who is authorized to practice medicine or perform surgery by the state in which the doctor practices, or any other person determined by the U.S. Secretary of Labor to be capable of providing health care services.

"Immediate family" means the employee's spouse, children, grandchildren, foster children, stepchildren, legal wards, parents, grandparents, foster parents, brothers, sisters, foster brothers, stepbrothers, sons-in-law, brothers-in-law, sisters, foster sisters, step-sisters, daughters-in-law, sisters-in-law, aunts, uncles, nieces, nephews, first cousins, corresponding relatives of the employee's spouse, and other persons who are members of the employee's household.

"In loco parentis" means in the place of a son, daughter or parent and charged with the same rights, duties, and responsibilities as a son, daughter or parent.

"IRC" means Internal Revenue Code.

"Job classification" means one or more positions sufficiently similar in kind and level of duties and responsibilities that they may be grouped under the same title, pay plan, pay grade, and other elements included in the classification plan.

"Long-term disability" means a condition of an employee who is determined by the state of Iowa's long-term disability insurance carrier to be unable to work because of illness or injury.

"Merit system" means those positions or employees in the state personnel system determined by the director to be covered by the provisions of Iowa Code chapter 19A as it pertains to qualifications, examinations, competitive appointments, probation, and just cause discipline and discharge hearings.

"Minimum qualifications" means the minimum education, experience, or other background required to be considered eligible to apply for, or otherwise perform the duties of a particular job classification. Minimum qualifications are published in classification descriptions, and pertain only to positions covered by merit system provisions.

"Nonpay status" means that period of time when an employee does not work during scheduled work hours and the work absence is not covered by any kind of paid leave. This includes employees who do not supplement workers' compensation payments with paid leave.

"Overtime" means those hours that exceed 40 in a workweek for which an employee is entitled to be compensated.

"Overtime covered class, employee, or position" means a class, employee, or position determined to be eligible for premium overtime compensation in accordance with the federal Fair Labor Standards Act.

"Overtime exempt class, employee, or position" means a class, employee, or position determined to be ineligible for premium overtime compensation.

"Pay increase" means a periodic step or percentage increase in pay within the pay range for the class based on time spent, performance, or both.

"Pay plan" means one of the various schedules of pay grades and salaries established by the director to which classes in the classification plan are assigned.

"Permanent employee" means any executive branch employee (except board of regents employees) who has completed at least six months of continuous nontemporary employment.

When used in conjunction with coverage by the merit system provisions referred to in Iowa Code section 19A.2A, unnumbered paragraph 3, it further means those employees who have completed the period of probationary status provided for in Iowa Code subsection 19A.9(8).

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EFF. 7/20/90

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EFF. 8/5/93

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"Position" means the grouping of specific duties and responsibilities assigned by an appointing authority that comprise a job to be performed by one employee. A position may be part-time or full-time, temporary or permanent, occupied or vacant, eligible or not eligible to be covered by a collective bargaining agreement, or covered or not covered by merit system provisions. Each position in the executive branch of state government shall be assigned one of the job classifications published in the classification plan.

"Position classification review" means the process of studying the kind and level of duties and responsibilities assigned to a position by comparing those duties and responsibilities to classification descriptions, classification guidelines, or other pertinent documents in order to determine the proper job classification to which a position will be assigned.

"Premium rate" means compensation equal to one and one-half hours for each hour of overtime.

"Probationary employee" means any executive branch employee (except board of regents employees) who has completed less than six months of continuous nontemporary employment. When used in conjunction with coverage by the merit system provisions referred to in Iowa Code section 19A.2A, unnumbered paragraph 3, it further means those employees who have not completed the period of probationary status provided for in Iowa Code subsection 19A.9(8). "Promotion" means the acceptance by a nontemporary employee of an offer by an appointing authority to move to a position in a class with a higher pay grade and may involve movement between positions covered by merit system provisions and positions not covered by merit system provisions.

"Reassignment" means the movement of an employee and the position the employee occupies within the same organizational unit or to another organizational unit, at the direction of the appointing authority. A reassignment may include a change in duties, work location or hours of work, and may be temporary or permanent.

"Reclassification" means the change of a position from one job classification to another based upon changes in the kind or level of the duties and responsibilities assigned by an appointing authority.

"Red-circled salary" means an employee's salary that exceeds the maximum for the pay grade in the pay plan to which the employee's class is assigned.

"Regular rate of pay" means the total compensation an employee receives including base pay, shift or educational differential, special or extraordinary duty pay, leadworker pay, or any other additional special pay.

"Same pay grade" means those pay grades in the various pay plans having the same pay grade number as well as those pay grades using a three-step pay range where those steps correspond to the top three steps of a six-step range. A three-step pay grade shall be considered the same as the corresponding six-step pay grade in determining whether an action is a promotion, demotion, or transfer.

"Serious health condition" means an illness, injury or impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential care facility or continuing treatment (i.e., two or more visits or treatments, or one visit that results in a continuing regimen of treatment) by a health care provider causing an absence from school or work of more than three consecutive days.

"Shift" means one segment of a 24-hour period in the work schedule of an appointing authority (e.g., day, evening, night shift).

"Shift differential" means extra pay for eligible employees who work shifts other than the day shift.

"Special duty assignment" means the temporary assignment of a permanent employee to a position in another class.

"Standby" means those times when eligible employees are required by the appointing authority to restrict their activities during off-duty hours so as to be immediately available for duty

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when required by the appointing authority, and is other than simply the requirement to leave word of their whereabouts in case of the need to be contacted.

“*Temporary*” means employment for a limited period of time, or employees with seasonal, emergency, intermittent, internship, trainee, or temporary status.

“*Temporary services*” means staffing provided by an outside vendor under an authorized contract, such as a temporary employment service, for a limited period of time.

“*Transfer*” means the movement of an employee from a position in a class to another vacant position in the same class. Transfer may be voluntary, at the request of the employee, or involuntary, at the direction of the appointing authority. Involuntary transfer may be to a different class in the same pay grade.

“*Veteran*” means any person honorably separated from active duty with the armed forces of the United States who served in any war, campaign, or expedition during the dates specified in 1985 Iowa Code supplement section 70.1.

“*Work time*” means all hours spent performing the duties of an assigned job; travel between job sites during or after the employee’s regular hours of work (where no overnight expenses are involved); rest periods allowed during the employee’s regular hours of work; and meal periods when less than 30 consecutive minutes is provided.

“*Workweek*” means a regularly recurring period of time within a 168-hour period of seven consecutive 24-hour days.

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Eff. 7/20/90

CHAPTER 2
COVERAGE AND EXCLUSIONS

Effective 12/10/86

581—2.1(19A) State personnel system. The state personnel system shall include and apply to all positions in the executive branch of state government, except those specifically excluded by law.

581—2.2(19A) Merit system. The merit system shall include and apply to those positions in the state personnel system which have been determined by the director to be covered by the provisions of Iowa Code chapter 19A, as it pertains to qualifications, examinations, competitive appointments, probation, and just cause discipline and discharge hearings, hereafter referred to as merit system provisions. Whenever the director determines that a position should be covered by or not covered by merit system provisions, the director shall notify the appointing authority in writing of the decision and the effective date.

2.2(1) Exclusion of deputy directors and division administrators. The appointing authority of each agency shall submit to the director for approval the position number and title of deputy directors and division administrators referred to in Iowa Code section 19A.3 proposed for exclusion from coverage by the merit system provisions referred to in Iowa Code section 19A.2A, unnumbered paragraph 3. Subsequent changes in the number or duties of these positions shall be submitted to the director for exclusion approval.

2.2(2) Exclusion of confidential employees. Confidential employees excluded from coverage by merit system provisions shall be as provided for in chapter 1 of these rules.

2.2(3) Rescinded, effective September 16, 1987.

2.2(4) Career executive return rights. Permanent employees in positions covered by merit system provisions who are appointed to career executive positions shall have return rights to a position covered by merit system provisions. Return shall be to the same class or a class in the same pay grade as the class from which appointed in the agency in which the career executive appointment was made. Eligibility to return shall expire six months following the effective date of the appointment to the career executive position.

581—2.3(19A) Confidential collective bargaining exclusion. An appointing authority may request the director to exclude a position in a class covered by a collective bargaining agreement from coverage by that agreement based upon the definition of a confidential employee in these rules. The request shall be submitted to the director in writing and include the reasons why the position should be excluded. The director shall notify the appointing authority of the decision.

581—2.4(19A) Service contracts. Individuals rendering services to the state under an authorized contract, including persons supplied by a temporary employment service, shall not be considered employees of the state and are not subject to other provisions of these rules. Prior to signing a service contract, not including one that provides for staff from a temporary employment service, the appointing authority shall submit a request for approval to the director on forms prescribed by the director. Agencies that use staff provided by a temporary employment service must obtain approval from the department of management according to procedures established by the department of personnel.

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CHAPTER 3
CLASSIFICATION
(Effective 7-20-90)

581-3.1(19A) Overall administration.

3.1(1) The director shall prepare, maintain, and revise a classification plan for the executive branch of state government such that positions that are determined by the director to be similar with respect to kind and level, as well as skill, effort, and responsibility of duties assigned may be included in the same job classification.
3.1(2) The director may add, delete, modify, or subdivide job classifications to suit the needs of the executive branch of state government. When doing so results in new job classifications being added to the classification plan, they shall be approved by the commission.

Eff. 1/17/92

581-3.2(19A) Classification descriptions and guidelines.

3.2(1) When new job classifications are added, classification descriptions are developed and published by the department as needed. They contain information about the job classification which may include examples of duties and responsibilities assigned, knowledge, abilities and skills required, and qualifications required. They may also be used by department staff as one of several resources in arriving at position classification decisions. Classification descriptions are not intended to be all-inclusive. That some duties performed by an incumbent are or are not on the classification description is in no way to be construed as an indication that a position is or is not assigned to the proper job classification.
3.2(2) Position classification guidelines are developed and published by the department as needed. Their purpose is to document information about the duties and responsibilities that may be typically associated with a job classification or a series of job classifications. They may describe the kind and level of duties assigned, as well as the skill, effort, and working conditions associated with job performance. Where the job classification being described is one in a series, the position classification guideline may compare and contrast the similarities and differences among levels in the series.
Position classification guidelines are intended for use by department staff as one of several resources in arriving at position classification decisions.
3.2(3) Nothing in a classification description or position classification guideline shall limit an appointing authority's ability to assign, delete or alter the duties of a position.
3.2(4) Changes to minimum qualifications in a classification description shall have no effect on the status of employees in positions in that class, except where licensure, registration, or certification is required.

Eff. 1/17/92

Eff. 3/29/91

581-3.3(19A) Position description questionnaires shall be submitted to the director and kept current on forms prescribed by the director for each position under an appointing authority's jurisdiction. The appointing authority shall assign duties to a position and may add to, delete or alter the duties of a position. An updated position description questionnaire shall be submitted whenever changes in responsibilities occur that may impact a position's job classification. Position description questionnaires are a public record.
581-3.4(19A) Position classification reviews.
3.4(1) The director shall decide the job classification of all positions in the executive branch of state government except those specifically provided for by law.
3.4(2) The director may initiate specific or general position classification reviews. An appointing authority or an incumbent may also submit a request to the director to review a specific

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written consent regarding the change in merit system coverage. A copy of the written consent letter shall be forwarded by the appointing authority to the director. If the employee does not consent to the change in coverage, a reduction in force may be initiated in accordance with these rules or the applicable collective bargaining agreement provisions.

CHAPTER 4

PAY

Effective 12/10/86

581-4.1(19A) Preparation and adoption of pay plans.

4.1(1) The director shall prepare pay plans that apply to all classes and positions in the executive branch of state government, except those under the board of regents.

4.1(2) The following are the general types of pay plans:

a. Pay plans that have established step amounts and apply to classes and positions that are eligible for collective bargaining under Iowa Code chapter 20 and for which collective bargaining agreements have been negotiated and are in effect.

b. Pay plans that have no established step amounts and apply to classes and positions that are eligible for collective bargaining under Iowa Code chapter 20, but for which collective bargaining agreements have not been negotiated.

c. Pay plans that have no established step amounts and apply to classes and positions that are excluded from collective bargaining under Iowa Code section 20.4.

4.1(3) When used in these rules, the word "step" refers to those pay plans described in subrule 4.1(2), paragraph "a," and the classes and positions assigned to them. When used in these rules, the words "percent" or "percentage" refer to those pay plans described in subrule 4.1(2), paragraphs "b," and "c," and the classes and positions assigned to them.

4.1(4) The commission shall hold a public hearing prior to the director's adoption or revision of pay plans.

581-4.2(19A) Content of pay plans.

Pay plans shall include numbered pay grades showing the minimum and maximum salaries (and intermediate step amounts when applicable) for each.

581-4.3(19A) Review and amendment of pay plans.

The director shall review the pay plans at least annually and, after taking into account the results of collective bargaining agreements or other factors, may reassign class pay grades.

581-4.4(19A) Administration.

4.4(1) The director shall assign classes to pay plans and grades. Pay decisions shall be at the discretion of the appointing authority, unless otherwise mandated in this chapter. Employees shall be paid either at one of the established steps in the pay grade or at a rate of pay between the minimum and maximum salary in the pay grade for their class or position except as provided for elsewhere in these rules or by the director.

Unless otherwise specifically provided in the Iowa Code, the following employees may be paid any amount that is within the range designated for the employee's class or position and shall not be subject to the provisions of subrule 4.5(2): the staff of the governor; full-time board or commission members whose appointments are provided for by law; department heads, independent agency heads and others who by law are appointed by the governor; deputy directors and division administrators. The pay of all other employees shall be subject to the provisions of this chapter or applicable collective bargaining agreement provisions.

4.4(2) Total compensation. No employee shall receive any pay other than that specifically authorized for the discharge of the duties assigned to the position occupied, except as specifically authorized in the Iowa Code.

When part of the compensation for services in a position (other than military leave) is paid by another agency, governmental entity or from a different fund or account, those payments shall be deducted from the compensation of the employee so that the total compensation paid to the employee from all sources shall not exceed the amount prescribed for the position.

581-4.5(19A) Pay of employees.

4.5(1) Pay rates. When appointed, employees shall be paid the minimum rate for the class, except for the following advanced appointment rates:

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a. Pay based on scarcity of applicants. When an appointing authority submits a written request documenting the economic or employment conditions which make employment at the minimum rate of pay for a class unlikely, the director may authorize appointments at a higher entrance rate within the pay grade for the class in a specific geographical area or for the class as a whole. All employees in the same class and under the same conditions earning less than the higher rate shall be increased to the approved entrance rate and a new pay increase eligibility date shall be established if the increase in pay is at least one step or 5 percent. Thereafter, all newly appointed employees or promoted employees under the same conditions in the same class shall be paid the higher entrance rate of pay. The higher entrance rate shall remain in effect until rescinded by the director.

b. Pay based on overqualification or exceptional qualifications.

(1) An appointing authority may grant up to two steps, or up to 15 percent, in excess of the entrance rate of pay for a class to an applicant who possesses unusually applicable education or experience for the position, depending on the particular needs of the appointing authority. Offers that exceed these limits shall first be requested in writing for approval by the director.

(2) An appointing authority may, for promoted employees, grant up to two steps or up to 15 percent in excess of the amount granted on promotion based upon the same criteria set forth in subparagraph (1) of this paragraph. Offers that exceed these limits shall first be requested in writing for approval by the director.

(3) All other current employees possessing equivalent qualifications in the same job class under the same appointing authority may be adjusted to the same advanced appointment rate of pay granted to an individual for original appointment or promotion. Adjustments that exceed two steps or 15 percent shall first be requested in writing for approval by the director. Employees who are adjusted shall be given a new pay increase eligibility date if the adjustment is at least one step or 5 percent.

(4) Advanced appointment rate provisions in this paragraph may be applied to reclassification pay increases.

(5) Advanced appointment rates that do not require prior written justification and approval will be periodically postaudited by the director. If postauditing reveals noncompliance with the policies for granting advanced appointment rates, the advanced appointment rate of an individual(s) may be reversed and the discretion to give advanced appointment rates without the director's prior approval may be temporarily or permanently revoked.

c. Pay upon reinstatement. A former permanent employee who is reinstated shall be either: (1) paid a rate of pay within the pay grade for the class that does not exceed the rate of pay at separation; (2) paid a rate of pay within the pay grade nearest to the rate at separation if reinstated to a class covered by a different pay plan with steps; or (3) paid in accordance with subrule 4.5(1), paragraph "b." The reinstatement rate of pay shall include any class series, pay grade, or other pay adjustments made during the period of separation. If the employee's rate of pay was red-circled at the time of separation, the maximum rate of pay in the pay grade to which reinstated shall be controlling. A new pay increase eligibility date shall be established upon reinstatement, and a new adjusted employment date for vacation accrual purposes shall be established, except as otherwise provided in these rules.

d. Pay upon return from leave. An employee who returns from authorized leave without pay or educational leave with pay shall be paid at the same step or rate of pay in the pay grade for the class held prior to leave including any changes to the pay grade for the class, class series changes, pay plan changes, or other adjustments for which the employee would have been eligible if not on leave. The pay increase eligibility date shall be adjusted for the period of leave if the leave was in excess of 30 calendar days, unless the leave was educational leave required by the appointing authority or military leave. Employees who return from educational leave required by the appointing authority or military leave shall also be entitled to any pay increases for which they would have been eligible during the period of leave.

e. Pay upon recall. A permanent employee who has been laid off and who is subsequently recalled shall be either: (1) paid the same rate of pay the employee was paid at the time of layoff, including any class series, pay grade, or other pay adjustments for which the employee would have been eligible while on the recall list; (2) paid the nearest rate of pay within the

or the nearest rate of pay that is no less than the employee's rate of pay at the time of separation, including any class series, pay grade, or other pay adjustments for which the employee would have been eligible while on the recall list; (2) paid the nearest rate of pay within the pay grade that is no less than the employee's rate of pay at the time of separation if recalled to a class covered by a different pay plan with steps; (3) paid the entrance rate of pay for the class if the rate of pay at the time of separation was less than that of the class to which recalled; or (4) the maximum rate of pay for the class if the employee's rate of pay at the time of separation exceeds the maximum rate of pay for the class to which recalled.

A permanent employee who changed classes in lieu of layoff, and is subsequently recalled to the class held prior to the layoff shall continue to be paid at the current rate of pay except in the following instances:

- (1) If the employee's current pay is less than that received at the time of the reduction in force, the employee's pay shall be increased to that rate including any class series, pay grade, or other pay adjustments for which the employee would have been eligible.
- (2) If recalled to a class covered by a different pay plan with steps, the employee shall be paid the nearest rate of pay within the pay grade that is no less than the employee's current rate of pay.
- (3) If the employee's current rate of pay is less than the minimum rate of pay for the class to which recalled, the employee's pay shall be increased to that minimum.
- (4) If the employee's current rate of pay exceeds the maximum rate of pay for the class to which recalled, the employee's pay shall be reduced to that maximum.

When recalled the employee's previous pay increase eligibility date shall be reinstated but adjusted to a later date with credit given for previous time served, except that a new pay increase eligibility date shall be set if the employee is recalled to a class under circumstances requiring that the employee be given at least a one-step or 5 percent increase in pay in order to be paid in order to be paid the minimum rate of pay for the class or to be paid on step.

The pay increase eligibility date for employees who accepted a change in class in lieu of layoff and who are recalled to the class held prior to the reduction in force shall not change, except that a new pay increase eligibility date shall be set if the period of time until the pay increase eligibility date in the previous class exceeds the period of time required for progression on the new step or if the employee is recalled to a class under circumstances requiring that the employee be given at least a one-step or 5 percent increase in pay in order to be paid the minimum rate of pay for the class or to be paid on step.

The director may authorize appointment below the entrance rate of pay for a class for trainee appointments to positions covered by merit system provisions. When trainee appointments are made in accordance with these rules, the rate of pay shall be set one step or 5 percent below the entrance rate for the class for each semester (or equivalent) of training the appointee lacks in meeting the minimum training requirements for the class to which the appointment is made. Pay increases shall be automatic and coincide with the successful completion of each semester of additional training. As soon as the training needed to meet the established minimum qualifications has been completed, the trainee shall be appointed in accordance with these rules or terminated.

8. Pay for internship appointments. When an appointment is made to the administrative intern class, the employee may be paid the entrance rate, or up to 15 percent above the entrance rate of pay for that class, or any rate of pay in the pay plan that is less than the entrance rate, or up to 15 percent above the entrance rate of pay for that class. Requests to pay more than 15 percent above the entrance rate must be submitted to the director for approval.

When an appointment is made to the transportation engineer intern class, the employee shall be paid in accordance with the fiscal year pay schedule approved by the director.

h. Pay for emergency appointments. Persons on emergency appointments shall be paid the entrance rate of pay for the pay grade assigned to the class to which appointed. Pay upon change in class in lieu of layoff. A permanent employee who changes class in lieu of layoff shall either:

Continue to be paid the same rate of pay the employee was paid at the time of the reduction in force:

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Eff. 12/21/88

Eff. 4/13/88

Eff. 7/20/90

Eff. 4/13/88

Be paid the nearest rate of pay within the pay grade that is no less than the employee's current rate of pay if the change is to a class covered by a different pay plan;

Be paid the entrance rate of pay for the class if the employee's current rate of pay is less than the entrance rate for the new class; or

Be paid in accordance with subrule 4.5(17), if the employee's current pay exceeds the maximum rate of pay for the new class.

The employee's pay increase eligibility date shall not change except in the following instances:

If the period of time until the employee's eligibility date in the previous class exceeds the period of time required for progression on the new step, a new pay increase eligibility date shall be set;

If the employee's pay is increased to the minimum rate of pay for the class and the increase is at least one step or 5 percent, a new pay increase eligibility date shall be set;

If the new step requires a longer period of time for progression, the employee's pay increase eligibility date shall be adjusted to a later date but credit shall be given for the time already served.

4.5(2) Pay increases. A pay increase is a periodic step or percentage increase in an employee's base pay that is within the pay grade for the class to which the employee is assigned.

Pay increases shall be based on time spent, performance, or both. The granting of a pay increase shall establish a new pay increase eligibility date. Temporary employees are not eligible for pay increases unless otherwise provided for in these rules.

a. Pay increases shall not be automatic, except where provided for in collective bargaining agreements and for trainee appointments, nor retroactive if an increase is withheld, nor in advance of the pay increase eligibility date. Pay increases may be delayed beyond the eligibility date.

b. Pay increase eligibility.

(1) Employees in classes or positions covered by a pay plan provided for in subrule 4.1(2), paragraph "b," may be given a pay increase that is any amount within the pay range for the employee's class at the beginning of the pay period following the completion of the prescribed minimum periods of service. However, the employee's current performance evaluation rating must be at least competent (3.00) to receive an average (5.0%) or greater pay increase.

Employees in classes or positions covered by a pay plan provided for in subrule 4.1(2), paragraph "c," may be given a pay increase that is any amount within the pay range for the employee's class at the beginning of the pay period following the completion of the prescribed minimum periods of service. However, the employee's current performance evaluation rating must be at least competent (3.00) to receive an average (5.0%) or greater pay increase.

Minimum periods of service for pay increase eligibility for employees paid from a pay plan provided for in subrule 4.1(2), paragraphs "b" and "c," shall be 52 weeks, except that new employees, including persons who are reinstated, regardless of their salary at the time of appointment, as well as employees who receive an increase in pay of at least 5 percent as a result of a promotion, reclassification, or a class or pay plan change are eligible for their first pay increase after 26 weeks, unless provided otherwise in these rules.

(2) Employees in classes or positions covered by a pay plan provided for in subrule 4.1(2), paragraph "a," shall be given pay increases in accordance with time intervals published in their pay plan.

(3) The minimum periods of service for pay increase eligibility shall be exclusive of time spent on educational leave (except that required by the appointing authority), or other types of leave without pay (except military leave) which exceed 30 calendar days or as otherwise provided in these rules. Periods of service during educational leave required by the appointing authority or military leave shall be considered competent (3.00) for pay increase eligibility. The director may approve a reduction of the minimum time intervals for pay increases for specific classes where there are unusual recruitment and retention circumstances.

d. Pay increase eligibility dates. Any type of increase in pay given an employee, other than pay for exceptional job performance, pay for leadworker duty assignment, extraordinary duty or special duty assignment, or as otherwise provided in these rules or by the director shall establish a new pay increase eligibility date.

Eff. 11/24/89

Eff. 9/16/87 Intro.

Eff. 10/26/88

Pay increase eligibility dates for employees shall be set from the first day of the pay period if the employee starts on the first workday of a pay period. Otherwise, the date shall be set from the first day of the pay period following the date of employment.

e. Suspension of pay increases. If pay increases are suspended by Acts of the general assembly, the rules providing for pay increase eligibility shall be suspended until pay increase eligibility has been reimplemented.

4.5(3) *Pay for exceptional job performance.* Extra pay, not to exceed 5 percent of the employee's current annual base pay, may be given to an employee for exceptional job performance with the approval of the director. Written justification setting forth the nature of the exceptional job performance shall be submitted in advance to the director.

4.5(4) *Pay upon promotion.*

a. The pay of an employee promoted to a class covered by a different pay plan with steps shall first be adjusted to the nearest step amount in the new pay plan that is no less than the employee's current pay. If applicable, pay shall be further adjusted in accordance with this subrule.

A new pay increase eligibility date shall be set when the employee receives an increase in pay of at least one step or 5 percent. An employee who does not receive at least 5 percent shall retain their current eligibility date except that if the period of time until the employee's current eligibility date exceeds the period of time required for progression in the new pay grade, a new pay increase eligibility date shall be set. An employee who is at or exceeds the maximum rate of the pay grade in the previous class shall have a new pay increase eligibility date set regardless of the amount of the promotional increase in pay.

b. An employee promoted to a class covered by a pay plan with steps shall be given a one-step increase in pay or brought to the entrance rate of pay in the new pay grade, whichever is greater, if the promotion is between classes with one- or two-pay grade difference. For promotions between classes with a three or more pay grade difference, the employee shall be given a two-step increase in pay or be brought to the entrance rate of pay in the new pay grade, whichever is greater. Promotional pay for employees receiving leadworker pay shall be in accordance with subrule 4.5(5), paragraph "d."

c. An employee promoted to a class covered by a pay plan provided for in subrule 4.1(2), paragraph "b," may be given an increase in pay not to exceed 10 percent of the employee's base pay before the promotion or be brought to the entrance rate of pay in the new pay grade, whichever is greater. Promotional pay for employees receiving leadworker pay shall be in accordance with subrule 4.5(5), paragraph "d."

An employee promoted to a class covered by a pay plan provided for in subrule 4.1(2), paragraph "c," may be given an increase in pay not to exceed 10 percent of the employee's base pay before the promotion or be brought to the entrance rate of pay in the new pay grade, whichever is greater.

Promotional pay for employees receiving leadworker pay shall be in accordance with subrule 4.5(5), paragraph "d."

d. For promotions that require a change of duty station beyond 25 miles, the director may approve a one-step or 5 percent increase in pay in addition or any other promotional pay increase provided for in these rules. Subsequent changes in the location of the duty station may justify a request to the director to remove the extra pay previously granted under this paragraph. e. An employee who is promoted following a voluntary or disciplinary demotion shall not be eligible for a promotional pay increase until six months after the effective date of the demotion, except as otherwise provided in this paragraph. The promotional pay to be in effect at the end of the six-month period shall be determined at the time of the promotion, and the employee and the director notified.

Eff. 3/29/91

Eff. 12/21/88

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If the employee's pay is below the entrance rate of pay for the new class or requires adjustment to a step in a different pay plan, that portion of the promotional pay increase shall be given at the time of the promotion. The remaining increase shall be set at the end of the six-month period. The pay increase eligibility date shall be set at the time of the promotion based on the pay to be in effect at the end of the six-month period.

A promotional pay increase shall be given at the time of the promotion if:
(1) The employee's pay was reduced at the time of the demotion in an amount equal to or greater than the amount of the promotional pay increase; or
(2) The promotional pay increase is no more than if the employee had been promoted from the class held prior to the demotion.

f. If an employee's pay was red-circled prior to a promotion, the employee's pay shall be administered in accordance with subrule 4.5(17).

4.5(5) Pay for leadworker assignment.

a. Whenever a nonsupervisory employee is assigned duties such as distribution of work assignments, reviewing the work of others in the work unit, or maintenance of attendance or production records, and the performance of those duties does not justify reclassification, the director may approve the employee as a leadworker. The request shall provide facts as to why the additional duties are necessary and cannot be accomplished otherwise.

b. An employee who has been approved as a leadworker shall be entitled to extra pay of one step or 5 percent in addition to the employee's base pay in the pay grade for the class to which assigned. The extra pay may exceed the maximum of the pay grade for the class to which assigned. An employee who is assigned leadworker duties following a demotion or reclassification from a supervisory class to a nonsupervisory class shall not be eligible for leadworker compensation until six months after the effective date of the demotion or reclassification unless the employee's pay was reduced in an amount equal to or greater than the extra leadworker pay. At the time the employee is relieved of leadworker duties, the extra pay granted for those duties shall cease. If being relieved of leadworker duties coincides with promotion to a position in a higher or supervisory job class, the promotional pay increase shall be calculated from the combined total of the current base pay plus the current extra pay for leadworker assignment.

4.5(6) Pay for temporary assignments. Requests for additional pay for temporary assignments shall be submitted to the director in writing explaining the need and the period of time requested.

a. A permanent employee assigned to special duty may receive extra pay only when the assignment is to a class in a higher pay grade or from a nonsupervisory class in the same pay grade. The employee's pay shall be set in accordance with the rules governing pay upon promotion to the class to which assigned for the duration of the assignment. When extra pay is granted, the class to which the employee is temporarily assigned shall be controlling for all pay purposes including overtime, shift differential, standby, call back and leadworker pay eligibility.

b. A permanent employee assigned extraordinary duties may receive extra pay only when those duties are of a higher level than those in the class to which the employee is assigned, or when supervisory duties are assigned to an employee who is in a nonsupervisory class. This extra pay shall be given in step or percent increments, may exceed the maximum pay for the class, and shall be paid only as long as the extraordinary duties are assigned.

c. Extra pay given as a result of an assignment to special duty or extraordinary duty shall not affect the employee's eligibility to receive a pay increase while on a temporary assignment. If granted a pay increase, the extra pay shall then be recalculated from the employee's new base pay. At the expiration of the assignment, the employee's pay shall revert to the regular authorized pay.

4.5(7) Pay upon demotion.

a. When an employee voluntarily demotes or is disciplinarily demoted, the employee's pay shall be set at any step or rate of pay within the pay grade for the class to which demoted.

(1) If the pay is less than the entrance rate for the new class, it shall be increased to that minimum;

(2) If the demotion is to a class in a different pay plan with step amounts, the pay shall be adjusted to any step amount that does not exceed the employee's current pay. However, in order to adjust the employee to a step amount without a reduction in pay, the appointing authority may adjust the pay to the nearest higher step amount in the pay grade in the new pay plan; or

(3) If the employee's current pay exceeds the maximum pay for the new class the employee's pay may either be set at any step or percentage within the new pay grade or be red-circled in accordance with subrule 4.5(17).

b. When an employee is demoted, the pay increase eligibility date shall not change, except in the following instances:

(1) If the period of time until the employee's eligibility date in the previous class exceeds the period of time required for progression on the new step, a new pay increase eligibility date shall be set;

(2) If the employee's pay is increased at least one step or 5 percent as provided in paragraph "a" subparagraph (1) of this subrule, a new pay increase eligibility date shall be set;

(3) If the new step requires a longer period of time for progression, the employee's pay increase eligibility date shall be adjusted but credit shall be given for time already spent on the step.

c. If the demotion is for the convenience of the appointing authority and involves a change in duty station beyond 25 miles, the director may approve a one-step or 5 percent increase in pay for the employee. An increase in pay given an employee as a result of a change in duty station beyond 25 miles may be granted even if it would cause the employee's base pay to exceed the maximum rate of pay for the pay grade. Rules pertaining to red-circling apply to employees covered by this subrule except for those provisions pertaining to expiration. Employees are entitled to any pay adjustments for which they would otherwise be eligible. Subsequent changes in the location of the duty station may justify a request to the director to remove the extra pay previously granted under this paragraph.

4.5(8) *Pay upon change to the classification plan or the pay plans.* When an employee's current pay exceeds the maximum pay of the pay grade to which the class is assigned as a result of a change to the classification plan or the pay plans, or the employee's pay was previously red-circled, the pay shall be administered in accordance with subrule 4.5(17). When the current pay does not exceed the maximum pay, neither the employee's pay nor the pay increase eligibility date shall change except in the following instances:

a. If the change results in the employee being paid from a different pay plan with steps, the employee's pay shall first be adjusted to the nearest step in the new pay plan that is no less than the employee's current pay. If applicable, the employee's pay shall be further adjusted in accordance with this subrule.

b. If the employee's current pay is less than the entrance rate of pay for the new class or pay grade, the employee's pay shall be increased to the new entrance rate. The pay of an employee covered by a pay plan provided for in subrule 4.1(2), paragraphs "b" or "c," may be further adjusted in accordance with paragraph "d" of this subrule.

c. If the change results in the employee being paid in a higher pay grade and the class is given a one (1)-step increase in pay, unless previously adjusted in accordance with paragraph "b" of this subrule.

d. If the change results in the employee being paid in a higher pay grade and the class is covered by a pay plan provided for in subrule 4.1(2), paragraphs "b" or "c," the employee may be given up to a 5 percent increase in pay. An increase in pay given in accordance with

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paragraph "b" of this subrule shall be included when determining the increase in pay provided by this paragraph.

e. Pay increase eligibility dates shall change in the following instances:

(1) If the employee receives an increase in pay in accordance with paragraph "b" of at least one step or 5 percent or in accordance with paragraph "c," or "d" of this subrule, a new pay increase eligibility date shall be set. An employee who does not receive at least one step or 5 percent shall retain the current eligibility date, except that if the period of time until the

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employee's eligibility date exceeds the period of time required for progression, a new pay increase eligibility date shall be set.

(2) If the employee does not receive an increase in pay in accordance with paragraph "b" or "c" of this subrule, but the change results in the employee being paid from a step requiring a longer period of time for progression, the employee's pay increase eligibility date shall be adjusted, but credit shall be given for the time spent on the previous step. If the period of time until the employee's current pay increase eligibility date exceeds the new period of time required for progression, a new pay increase eligibility date shall be set.

(3) If an employee is either at or red-circled above the maximum pay established for the pay grade and the pay grade or range is subsequently adjusted upward, the employee shall have the time spent at the maximum pay or at the red-circled rate credited toward the time interval required for progression in the new pay grade or range.

(4) The director may provide for changes to pay increase eligibility dates or intervals when economic or other pay adjustments are made to the classification plan or the pay plan.

4.5(9) *Pay upon transfer.* When an employee's pay exceeds the maximum pay for the class to which assigned as a result of a transfer, the employee's pay shall be administered in accordance with subrule 4.5(17). When the employee's pay does not exceed the maximum pay, the employee's pay shall not change except in the following instances:

a. If the transfer results in the employee being paid from a different pay plan with steps, the employee's pay shall first be adjusted to the nearest step in the new pay plan that is no less than the employee's current pay. If applicable, the employee's pay shall be further adjusted in accordance with paragraph "b" or "c" of this subrule.

b. If the employee's pay is less than the entrance rate of pay for the new class, it shall be increased to that rate.

c. If the transfer is for the convenience of the appointing authority and involves a change in duty station beyond 25 miles, the director may approve a one-step or 5 percent increase in pay for the employee. An increase in pay given an employee as a result of a change in duty station beyond 25 miles may be granted even if it would cause the employee's base pay to exceed the maximum pay for the pay grade. Rules pertaining to red-circling in subrule 4.5(17) apply to employees covered by this subrule except for those provisions pertaining to extra-
tion. Employees are entitled to any pay adjustments for which they would otherwise be eligible. Subsequent changes in the location of the duty station may justify a request to the director to remove the extra pay previously granted under this paragraph.

d. If an employee is transferred from a nonsupervisory to a supervisory class in the same pay grade, the employee may be given a pay increase in accordance with subrule 4.5(4) "c".

e. Pay increase eligibility dates shall not change except in the following instances:

(1) If the employee receives either an increase in pay in accordance with paragraph "b" or at least one step or 5 percent, or an increase in pay in accordance with paragraph "d" of this subrule, a new pay increase eligibility date shall be set.

(2) If the employee only receives an increase in pay in accordance with paragraph "c" of this subrule, but the change results in the employee being paid at a step with a different period of time for progression to the next step, the employee only receives an increase in pay in accordance with paragraph "c" of this subrule, but the change results in the employee being paid at a step with a different period of time for progression to the next step, the employee's pay increase eligibility date shall be adjusted, but with credit given for the time spent on the previous step.

(3) If the employee does not receive an increase in pay but the transfer results in the employee being paid at a step requiring a longer period of time for progression to the next step, the employee's pay increase eligibility date shall be adjusted, but with credit given for the time spent on the previous step.

4.5(10) *Pay upon reclassification.* When a position is reclassified, the employee's pay and pay increase eligibility date shall be set in accordance with these rules governing pay upon promotion, demotion, or transfer, whichever is applicable.

Eff. 9/16/87

Eff. 10/26/88
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Eff. 4/13/88

Eff. 10/26/88

Eff. 7/1/88
Eff. 4/13/88

Eff. 5/26/89

When a position is reclassified downward and the reclassification is neither disciplinary, voluntary, nor the result of a reduction in force, it shall not be considered a demotion, but the employee's pay shall be handled as provided for in subrule 4.5(7).

4.5(11) *Pay for part-time employment.* Pay for part-time employment shall be proportionate to the rate of pay for full-time employment and based on the hourly rate of pay established for the class.

4.5(12) *Effective date of changes.* All pay or payroll changes shall be effective on the first day of a pay period unless otherwise approved by the director. Original appointments, reappointments and reinstatements shall be effective on the appointee's first workday.

4.5(13) *Pay for overlap appointments.* In cases where it is considered necessary to fill a position on an overlap basis pending the separation of an employee, an appointment of a new employee may be made in accordance with these rules for a period not to exceed 30 calendar days. An overlap appointment must be in the same class as the authorized position being overlapped unless approved otherwise by the director. Any overlap appointment for a longer period must first be approved by the director.

4.5(14) *Pay for certified teachers.* Employees who are required to possess a current valid teaching certificate with appropriate endorsements and approvals as issued by the Iowa department of education shall be assigned to an established level within the educator class series, subject to approval by the director. Assignment to a specific level shall be proposed by the appointing authority based upon consideration of factors established by the director. Pay increasing eligibility shall be in accordance with these rules.

4.5(15) *Pay upon phased retirement.* An employee who participates in the phased retirement program shall receive regular pay for the number of hours in pay status during the pay period. In addition, the employee shall also be paid ten percent of the employee's biweekly pay based upon full-time employment. An employee who is on leave without pay during an entire pay period shall not receive the additional ten percent for that pay period. A participant is eligible for pay increases, pay plan adjustments and other pay adjustments provided for in these rules.

4.5(16) *Pay for economic adjustments.* The director shall provide for the administration of economic pay adjustments. No employee whose pay is red-circled shall receive an increase in pay due to a pay plan adjustment unless it is specifically authorized by Acts of the general assembly or is due to an increase in pay granted in accordance with subrule 4.5(9), paragraph "c."

4.5(17) *Pay upon red-circling.* When a promotion, demotion, transfer, or other action occurs and the employee's pay exceeds the maximum rate of pay for the class to which the employee is assigned, the appointing authority may request that the employee maintain the current rate of pay (red-circle it) for up to one year with prior approval of the director. In exceptional instances, the director may approve a period of time in excess of one year. Any change to the red-circled pay or the period of red-circling prior to the end of the previously approved red-circling period must be approved by the director. At the time of the action, the appointing authority shall notify the employee in writing of the red-circled pay to be in effect, the expiration date of the red-circling period, and the rate of pay to be in effect upon the expiration of the red-circling period based upon rules governing the particular type of action.

Red-circling may be rescinded when requested by the appointing authority if the employee's classification or agency of employment changes with prior approval of the director. When circumstances warrant, the director may require red-circling and designate the period of time the red-circling will be in effect and the rate of pay to be in effect upon the expiration of the red-circling period.

FF.10/26/88

FF.10/26/88

FF.3/30/90

FF.9/16/87

4.5(18) Pay upon reduction in force.

a. When an employee's current pay exceeds the maximum pay of the pay grade for the class to which assigned as a result of a reduction in force or the employee's pay was previously red-circled, the pay shall be administered in accordance with subrule 4.5(17). When the current pay does not exceed the new maximum pay, the employee's pay shall not change unless the change results in the employee being paid from a different pay plan with steps. In this instance, the employee's pay shall first be adjusted to the nearest step in the new pay plan that is no less than the current pay. However, no pay adjustment shall be made if the class is paid from a pay plan covered in subrule 4.1(2), paragraph "b" or "c."

b. If the employee's rate of pay after any necessary adjustment is lower than the entrance rate of pay for the class, the employee's rate of pay shall be increased to the entrance rate of pay for the class.

c. Pay increase eligibility dates shall not change except in the following instances:

(1) If the employee receives an increase in pay in accordance with paragraph "b" of this subrule, a new pay increase eligibility date shall be set.

(2) If the employee receives a pay adjustment in accordance with paragraph "a" of this subrule and the change results in the employee being paid at a step with a different period of time for progression to the next step, the employee's pay increase eligibility date shall be adjusted, but with credit given for the time spent on the previous step. If the period of time until the employee's current pay increase eligibility date exceeds the period of time required for progression to the next step, a new pay increase eligibility date shall be set.

Eff. 12/21/88

4.5(19) Pay for recruitment and retention. A lump sum of extra pay may be given for recruitment of applicants or retention of current employees with prior approval of the director.

581-4.6(19A) Overtime. Overtime is defined as those hours for which the employee is entitled to be compensated that exceed forty (40) in a workweek. Uninterrupted meal periods of thirty (30) minutes or more which occur during the scheduled workday are not considered hours worked. Job classes will be designated by the director as to whether they are covered or exempt from mandatory overtime compensation. Recordkeeping shall be in accordance with the federal Fair Labor Standards Act.

4.6(1) Employees in overtime covered classes shall be compensated at a premium rate for each hour of overtime.

4.6(2) Employees in overtime exempt classes may be compensated for overtime when prior approval by the director has been granted. Compensation shall be at an amount no greater than the premium rate for each hour of overtime.

Eff. 11/23/90

4.6(3) Employees who are eligible for overtime compensation shall only work overtime when directed by a management official. Compensation for overtime shall be administered as follows:

a. When directed to work overtime, an employee in an overtime covered class shall choose the method of compensation except that the appointing authority may require pay as the method of compensation.

b. An appointing authority may decide the form of compensation for overtime worked, either pay or compensatory leave, of an employee in an overtime exempt class who is in a position previously approved by the director to receive overtime.

c. Rescinded IAB 2/20/91, effective 3/29/91.

d. Rescinded IAB 2/20/91, effective 3/29/91.

e. Rescinded IAB 2/20/91, effective 3/29/91.
4.6(4) Any hours in the pay period that have already been compensated at a premium rate for other reasons shall not be counted when determining the 40-hour base for calculating overtime.

EFF. 11/24/89

581-4.7(19A) **Compensatory leave pay.** Employees who are eligible for premium overtime may accrue compensatory leave in lieu of payment for overtime. Compensatory leave may also be accrued in lieu of pay for standby, holidays, or holiday work. Compensatory leave may be earned for call back only to the extent that it is overtime.
1. Compensatory leave may accrue to a maximum of 80 hours. Thereafter, the employee shall be paid.
2. Compensatory leave may be paid out at any time at the appointing authority's discretion, and when paid shall be at the employee's current regular rate of pay.
3. Accrued compensatory leave shall be granted in accordance with rule 581-14.7(19A).
4. All accrued compensatory leave shall be paid to the employee upon separation from state employment, transfer to a different agency, or movement to a class with a different overtime designation.

EFF. 3/29/91

581-4.8(19A) **Shift differential.** Overtime covered employees of an appointing authority whose operations require other than a day shift shall receive a shift differential when regularly working other than a day shift. Overtime exempt employees may be eligible for shift differential at the discretion of the appointing authority with prior approval from the director.
4.8(1) To be considered as regularly working other than a day shift, an employee shall be scheduled for four or more hours between 6 p.m. and 6 a.m. for two or more consecutive weeks, or regularly assigned to rotate shifts.
4.8(2) The amount of the shift differential shall be determined by the director and shall be paid in cents per hour with one rate paid for the 6 p.m. to midnight time period and a higher rate paid for the midnight to 6 a.m. time period, in addition to the employee's current base pay. Employees who work in both time periods shall be compensated at the rate set for the time period in which the majority of hours are worked. Employees who work equal amounts in both time periods shall be compensated at the higher rate.
4.8(3) Shift differential shall be paid for all designated hours in pay status.

EFF. 11/23/90

581-4.9(19A) **Correction or change of an employee's pay.**
4.9(1) An employee's pay shall be corrected at any time if it is found to be in violation of these rules or a collective bargaining agreement.
An employee's pay may be changed for reasons other than a violation of these rules or a collective bargaining agreement if it is made within 12 pay periods following the time the original salary was set or the initial pay action should have occurred. In either instance, retroactive pay for time within the 90-day period preceding the time the salary is corrected or changed may be granted. Any retroactive pay which exceeds that 90-day period must be approved by the state appeal board prior to payment.
4.9(2) Errors resulting in the overpayment of wages, except for FICA, state or federal income taxes, or IPERS contributions, shall be collected in the following manner.
a. If an error is discovered that resulted in the overpayment of wages, the employee may choose to repay the overpayment in the following manner unless otherwise approved by the director.
(1) Repay the overpayment in a lump sum as a deduction from wages in the pay period following discovery of the error; or

EFF. 11/24/89

EFF. 9/16/87

EFF. 7/1/88

(2) Have the overpayment deducted from succeeding pay periods not to exceed the number of pay periods during which the overpayments occurred or 13 pay periods, whichever is less.

b. The repayment schedule shall be submitted by the appointing authority on forms prescribed by the director with the first corrective pay document.

c. Upon termination of employment, any overpayment still outstanding and for which a repayment schedule was implemented, shall be deducted from the wages due the employee for the final pay period of employment.

4.10 Reserved.

Eff. 3/29/91

581-4.11(19A) Call back. When an overtime-covered employee is directed by the appointing authority to report to the work site for hours other than those scheduled, the employee shall be compensated for a minimum of three hours. Compensation shall be based on the employee's current regular rate of pay. Any call back hours actually worked that cause the employee to exceed 40 hours in a work week shall be compensated as overtime. Any non-worked call back hours shall be paid at the employee's regular rate of pay. An employee shall not be compensated for standby for hours compensated for call back.

To be eligible for call back compensation, the time worked may not be contiguous to the beginning or the end of the employee's assigned work hours.

Overtime exempt employees may be eligible to be compensated for call back hours worked at the discretion of the appointing authority with prior approval from the director.

4.12 Reserved.

Eff. 3/29/91

581-4.13(19A) Standby. When an overtime-covered employee is directed by the appointing authority to be on standby, the employee shall be compensated for each off-duty hour in that capacity at the rate of 10 percent of the employee's current regular rate of pay. Time spent actually working or when receiving call back pay shall not be counted when determining the hours to be compensated for standby. Compensatory leave accrued for being on standby during a pay period shall not be counted as hours worked. When required to be on standby, the employee shall receive a minimum of one-hour standby compensation. Compensation shall either be in pay or compensatory leave at the discretion of the appointing authority.

Overtime exempt employees may be eligible to be compensated for standby at the discretion of the appointing authority with prior approval from the director.

4.14 Rescinded, effective 12/10/86.

4.15 Rescinded, effective 12/10/86.

This rule is intended to implement Iowa Code section 19A.9.

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
58 CHEMISTRY BUILDING
CHICAGO, ILLINOIS 60637

RECEIVED
MAY 15 1964

TO THE DIRECTOR
OF THE NATIONAL BUREAU OF STANDARDS
WASHINGTON, D. C. 20540

FROM
DR. J. H. GOLDSTEIN
CHICAGO, ILLINOIS

RE: [Illegible]

CHAPTER 5
RECRUITMENT, APPLICATION AND EXAMINATION
(Effective 9/16/87)

581-5.1(19A) Recruitment. Classes are closed to application from persons not employed by the state unless specifically opened by the director.
EFF. 10/26/88
EFF. 10/26/88

5.1(1) Open recruitment announcements. The director shall give public notice of classes opened for recruitment of persons who are not employed by the state. Classes will remain open for a minimum of 15 calendar days following the announcement date. Recruitment be limited to a specific geographic area or a specific selective background area or both. Recruitment announcements shall be posted in designated state offices and in job service division offices. Copies may also be sent to newspapers, radio stations, educational institutions, professional and vocational associations, and other recruitment sources.
EFF. 4/13/88

5.1(2) Promotional recruitment announcements. Announcements of promotional opportunities shall be posted on bulletin boards and in other conspicuous places throughout the agency involved, and reasonable steps shall be taken by the appointing authority to bring these announcements to the attention of all agency employees.
5.1(3) Content of announcements. Announcements shall specify the class title, salary range, method for making application, closing date for receiving applications, and peculiar availability requirements or selective background requirements if necessary. Announcements for continuous recruitment shall include a statement indicating that applications will be accepted until further notice.

5.1(4) Coordinated announcements and advertising. The appointing authority shall send to the director copies of all advertisements announcing employment opportunities to be placed in any publication, and any additional information required by the director. The appointing authority shall also comply with any policies established by the director regarding coordinated advertising to reduce state advertising costs.

581-5.2(19A) Applications.
5.2(1) Applicant information. Applicant information shall be on forms prescribed by the director. Applicants must supply at least their name, current mailing address, signature and social security number; however, if an applicant requests, a nine-digit number will be assigned by the department to be used in lieu of a social security number. If other than the social security number is requested, it shall be the applicant's responsibility to ensure that all future correspondence directed to the department regarding the applicant's records must contain the assigned nine-digit number. All other information on the application, although not required by law or these rules, will assist the department in accurately and completely processing and evaluating the application. The director may require an applicant to submit documented proof of the possession of any license, certificate, degree, or other evidence of eligibility or qualification to include mental or physical capability to satisfactorily perform the essential duties of the job classification.
5.2(2) Verifying applicant information. The director may verify statements contained in an application and seek further information concerning an applicant's qualifications. If information is obtained which affects an applicant's standing, the director shall make the necessary adjustment.
EFF. 7/20/90

5.2(3) Applicant files. Applications accepted for processing and necessary related materials will be placed in the applicant files in the department and retained for no less than one year. Applications for classes which result in the hire of the applicant will be placed in the employee files in the department and retained for no less than the period of employment.
5.2(4) Application for eligible lists. Applicants may apply to be on eligible lists as follows:
a. Promotional lists. Permanent employees, including permanent employees of the board of regents, community-based corrections, as well as persons enrolled in work experience or internship programs approved by the director, may make application to be on promotional lists. Permanent employees, including permanent employees of the board of regents and

EFF. 3/29/91

EFF. 10/26/88

community-based corrections, may apply at any time. Work experience persons may apply following a qualifying period of service with the state. Interns may apply in accordance with the provisions of subrule 8.10(3). All applicants shall meet the minimum qualifications, but shall be exempt from examinations used for the purpose of ranking on eligible lists. Applicants may, however, be subject to keyboard tests to determine if they meet the minimum qualifications for specific job classes.

b. Nonpromotional lists. Persons other than permanent employees may make application to be on nonpromotional lists. The following may apply to be on nonpromotional lists at any time:

1. Persons laid off and eligible for recall;
 2. Judicial branch employees;
 3. Legislative branch employees;
 4. Probationary or provisional probationary employees;
 5. Intermittent or provisional intermittent employees;
 6. Seasonal, emergency, trainee or intern employees, not on the promotional list, or volunteers (including persons enrolled in work experience programs who are not on the promotional list), following a qualifying period of service with the state as determined by the director.
 7. Nonpermanent employees of the board of regents and community-based corrections.
- All other applicants may apply to be on nonpromotional lists only when the job class is open for recruitment.

5.2(5) Application pending license or graduation. An applicant currently enrolled in an educational institution who does not meet the minimum education or license requirements may be placed on the appropriate eligible list provided the applicant will meet the requirements within eight months. If certified in the top six available scores, the applicant may be selected for employment, but may not be appointed until all requirements are met.

5.2(6) Disqualification or removal of applicants. The director may refuse to place an applicant on a list of eligibles, refuse to certify an applicant, refuse to approve the appointment of a certified applicant, or remove an applicant from the list of eligibles or a certificate if it is found that the applicant:

- a. Does not meet the minimum qualifications or special requirements for the job class as provided for in the specification, administrative rule, or law.
- b. Is physically or mentally incapable of performing the essential duties of the job classification.
- c. Has knowingly misrepresented the facts when submitting information relative to the application, testing, or certification process or any other facet of the selection process.
- d. Has used coercion or bribery to secure an advantage in the application, testing, or selection process.
- e. Has obtained examination information to which applicants are not entitled.
- f. Has failed to submit the application within the designated time limits on the announcement.
- g. Was previously discharged from a position in state government.
- h. Has been convicted of a felony that is shown to have a direct relationship to the duties of the job class.
- i. Is proven to be an unrehabilitated substance abuser who would be unable to perform the duties of the job class or who would constitute a direct threat to state property or to the safety of others.
- j. Is not a United States citizen and does not have a valid permit to work in the United States under regulations issued by the U.S. Immigration and Naturalization Service.

Applicants disqualified or removed under this subrule shall be notified in writing by the director within five working days following removal. Applicants may informally request that the director reconsider their disqualification or removal by submitting additional written evidence of their qualifications or reasons why they should not be removed in accordance with rule 581—12.3(19A). Formal appeal of disqualification or removal shall be in accordance with subrule 12.2(4).

EFF. 7/20/90

EFF. 3/29/91

EFF. 3/30/90

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EFF. 3/29/91

EFF. 4/13/88

Eff. 7/20/90

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Eff. 1/17/92

5.2(7) *Qualifications*. Applicants must meet the qualifications for the class as well as any selective certification requirements associated with a particular class or position as indicated in the class description. The director shall determine whether or not an applicant meets such qualifications and requirements. Applicants and employees may, as a condition of the job, be required to have a current license, certificate, or other evidence of eligibility or qualification. Employees who fail to meet and maintain this requirement shall be subject to discharge in accordance with rule 581—8.13(19A) or subrule 11.2(4). Any fees associated with obtaining or renewing a license, certificate, or other evidence of eligibility or qualification shall be the responsibility of the applicant or employee unless otherwise provided by statute.

Eff. 7/19/91

581—5.3(19A) *Examinations*. The director may conduct examinations to determine the relative rank of qualified applicants on eligible lists or, in the case of keyboard tests, to determine if an applicant meets the minimum qualifications. Unless otherwise indicated, all references to examinations in this chapter shall apply only to positions covered by merit system provisions. Possession of a valid license, certificate, registration, or work permit required by the Iowa Code or the Iowa Administrative Code in order to practice a trade or profession may qualify as evidence of an applicant's basic skills. Where these basic skills constitute the primary requirement for job performance, the names of all applicants meeting the minimum qualifications may be placed on the appropriate eligible list without further examination. 5.3(2) *Types of examinations*. Examinations may include, but are not limited to, written, oral, physical, or keyboard tests, and may test for such factors as education, experience, aptitude, psychological traits, knowledge, character, physical fitness, or other standards related to job requirements.

Eff. 1/17/92

5.3(3) *Background checks*. Background checks and investigations, including, but not limited to, checks of arrest and conviction records, fingerprint records, driving records, financial or credit records, and child or dependent adult abuse records, constitute an examination or test within the meaning of this subrule, Iowa Code chapter 19A and 161 IAC 8.1(1). Confidential documents provided to the director by other agencies in conjunction with the administration of this rule shall continue to be maintained in their confidential status. The director is subject to the same policies and penalties regarding the confidentiality of the documents as any employee of the agency providing the documents. Background checks shall be conducted only after receiving approval from the director concerning the areas to be checked and the standards to be applied in evaluating the information gathered. Background checks are subject to the following limitations and requirements: a. Arrest record information, unless otherwise required by law, shall not be considered in the selection of persons for employment unless expressly authorized by the director. b. The appointing authority shall notify the director of each job class or position that requires applicants to undergo any type of background check. The notification shall document the clear business necessity for the background check and the job relatedness of each topic covered in the inquiry.

c. The director shall prescribe a statement that shall be presented by the appointing authority to each applicant that is to be investigated under this subrule. This statement shall inform the applicant that the applicant is subject to a background check as a condition of employment and the topics to be covered in the background check. It shall also inform the applicant

Faint, illegible text covering the majority of the page, appearing to be a document or report.

CHAPTER 6
ELIGIBLE LISTS
Effective 6-27-86

581-6.1(19A) Establishment of eligible lists. The director shall establish and maintain various lists of eligible applicants for use in filling vacant positions. Eligible lists shall be by job class. Eligible lists shall be continuous until abolished. Eligibility of an applicant shall not be less than one nor more than three years as determined by the director. The following are types of eligible lists:

6.1(1) Recall lists. These lists shall consist of the names of permanent employees who were separated by layoff; or who moved to another class or had their work hours reduced in lieu of layoff. Recall shall be in accordance with subrule 1.3(6).

6.1(2) Promotional lists. These lists shall consist of the names of permanent employees who have applied for a position covered by merit system provisions and who have met the minimum qualifications for the class. The length of time for eligibility for promotion from these lists need not be the same as that for appointment from nonpromotional lists.

6.1(3) Nonpromotional lists. These lists shall consist of the names of persons who are eligible for placement on promotional lists who have applied for positions covered by merit system provisions, met the minimum qualifications for the class, and undergone the designated examinations for the class. Persons in the certified disability program shall be placed on the nonpromotional list without score or rank and shall be eligible for hire along with applicants in the top six available scores.

6.1(4) Career executive lists. These lists shall consist of the names of permanent employees in positions covered by merit system provisions who have applied for positions not covered by merit system provisions in the career executive program and who have met the established minimum qualifications for the program.

581-6.2(19A) Ranking of eligibles. After examinations, the names of applicants shall be added to the nonpromotional eligible lists in the order of their final scores. All persons with identical final scores shall have the same rank on the list.

581-6.3(19A) Compilation of eligible lists in the absence of appropriate eligible lists. If a vacancy exists in a job class for which there is no eligible list, the director may compile a list from one or more existing related eligible lists for classes which are similar to or higher than the class in which the vacancy exists.

581-6.4(19A) Amendment of eligible lists. When a new eligible list is established for a class where an eligible list already exists, the existing list may be canceled or merged with the new list as determined by the director. If the name of an individual appears on both the old and the new eligible lists and those lists are merged, the individual's standing on the new list shall be determined by the score from the new examination.

581-6.5(19A) Removal of names from eligible lists.

6.5(1) The director shall temporarily remove the names from an eligible list for a particular job class(es) for any of the following reasons:

a. Failure by the applicant to maintain a record of current address as evidenced by the return of a properly addressed letter or other evidence.

b. Failure by the applicant to respond to a written inquiry from the director or an appointing authority as to availability within five workdays following the inquiry.

c. Receipt of a statement that the applicant no longer wants to be on the list for the class.

d. Declination of an appointment or promotion under previously agreed to conditions.

e. Appointment to a job class. Employees will be removed for job classes in the same or lower pay grades.

Applicants removed for the above reasons may request in writing to be restored to the list for a job class(es) if they are otherwise eligible.
6.5(2) The director shall remove names from an eligible list for a particular job class(es) for any of the following reasons:

- a. Abolition or expiration of an eligible list for a job class(es).
- b. In the case of promotional lists, separation from state service.
- c. In the case of nonpromotional lists, attainment of permanent status.

EFF. 3/30/90 d. Violation of any of the provisions of Iowa Code chapter 19A or these rules. Applicants removed for this reason shall be notified in writing by the director within five working days following removal. Appeal of removal shall be in accordance with subrule 12.2(4).
EFF. 9/16/87 6.6 Rescinded, effective September 16, 1987.

EFF. 9/16/87 6.7(19A) Statement of availability. It shall be the applicant's responsibility to notify the director in writing of any change in address or other changes affecting availability for employment. The director may at any time verify the availability of applicants. The names of applicants shall be withheld from all certificates which do not meet the stated conditions and locations under which the applicants have indicated availability.

CHAPTER 7
CERTIFICATION AND SELECTION

581-7.1(19A) Method of filling vacancies. Vacancies shall be filled through promotion, transfer, demotion, recall, reinstatement or original appointment. The method and order in which vacancies are filled shall be determined by the director, taking into consideration the provisions of collective bargaining agreements and these rules.

Eff. 9/16/87

581-7.2(19A) Certificate requests. An appointing authority shall submit a request for a certificate when filling a vacancy in a position covered by merit system provisions, except that a certificate shall be requested to fill any position when there are employees eligible for recall to the class, or as otherwise provided in these rules.

Eff. 12/10/86

581-7.3(19A) Types of certificates. The following types of certificates may be issued.

Eff. 12/10/86

7.3(1) Recall certificate. The director will certify the names of those persons who are eligible for recall in accordance with the provisions of subrule 1.3(6) or applicable collective bargaining agreements.

Eff. 9/16/87

7.3(2) Nonpromotional certificate. The director will certify the names of applicants who are not permanent employees and who have indicated availability for the conditions and location specified in the request for certification.

Eff. 7/19/91

7.3(3) Promotional certificate. The director will certify the names of applicants who are permanent employees, regardless of the agency of employment, who have indicated availability for the conditions and location specified in the request for certification.

Eff. 9/16/87

7.3(4) Career executive certificate. The director will certify the names of permanent employees in positions covered by merit system provisions who have applied for a position not covered by merit system provisions in the career executive program. Hiring from these certificates need not follow other provisions of this chapter.

Eff. 9/16/87

581-7.4(19A) Selective certification. The director may certify only those eligibles for a class who possess specific education, experience or other special qualifications required to perform the duties of a position. The director may establish procedures for processing requests and issuing selective certificates.

Eff. 12/10/86

581-7.5(19A) Selection. When filling a vacancy by original appointment, the appointing authority must select from among those available applicants in the top six final scores, or from persons in the certified disability program whose names are on the certificate.

Eff. 9/16/87

581-7.6(19A) Expiration of a certificate. The expiration of a certificate shall be 60 calendar days following the date of issue unless otherwise approved by the director. All appointments or promotions must be reported to the director before the expiration date of the certificate. Effective dates of appointments or promotions must be no later than 60 days after the expiration date of the certificate unless otherwise authorized by the director, except that appointments or promotions "pending graduation" or "pending license" shall be allowed to be effective up to nine months following the expiration date of the certificate.

Eff. 12/10/86

581-7.7(19A) Omission of names from referrals. If the appointing authority passes over the name of an applicant on three separate certificates in connection with three separate appointments for the same job class from which another person with a lower certified score was hired, the appointing authority may request that the director not refer that applicant to that appointing authority for future vacancies in that job class for a period of two years from the date removed.

Eff. 12/10/86

7.7(2) If an applicant declines or fails to respond to three offers to interview for the same job class in connection with three separate certificates for three different vacancies, the appointing authority may request that the director not refer the applicant to the appointing authority for that job class.

7.7(3) If approved for removal under this rule, the director shall notify the applicant within five working days following removal. The period of removal shall not exceed two years from the date removed. Appeal of removal shall be in accordance with subrule 12.2(4).

581-7.8(19A) Certification from related eligible lists. The director may issue certificates from related lists of eligibles compiled in accordance with rule 581-6.3(19A).

581-7.9(19A) Incomplete certification. If the number of names available for certification on a nonpromotional list is less than six, the appointing authority will be granted provisional appointment authority.

581-7.10(19A) Discretionary consideration of eligibles. An appointing authority need not consider the name of an applicant on a certificate if the applicant is currently employed in a permanent position in the same class or a class in the same, comparable or higher pay grade.

581-7.11(19A) Referral and appointment of "conditional" applicants. The names of applicants who are on the eligible list for a class "pending graduation" or "pending license" are considered to be "conditional." In order to have these applicants referred on a certificate, the appointing authority must explain in writing the need and the efforts to recruit and consider qualified applicants. Upon approval, the scores of both "conditional" and qualified applicants will be referred to the agency. If a "conditional" applicant is selected, the appointment shall be effective no sooner than when the requirements for qualification have been met. Appointments shall be made in accordance with subrule 5.2(5) and rule 581-7.6(19A).

581-7.12(19A) Adjustment of errors. An error in the compilation or issuance of a certificate, if called to the attention of the director prior to the expiration date of that certificate, shall be corrected and a new list issued. Except for a recall certificate, such correction shall not result in the removal of any eligible already certified nor invalidate any appointment already made.

Eff. 6/11/92

Eff. 4/13/88

Eff. 10/26/88

Eff. 10/26/88

Eff. 3/30/90

CHAPTER 8
APPOINTMENTS
(Effective 12/10/86)

581—8.1(19A) Filling vacancies. Unless otherwise provided for in these rules or the Iowa Code, the filling of all vacancies in the state personnel system shall be subject to the provisions of these rules. No vacant position in the executive branch shall be filled until the position has been classified in accordance with Iowa Code chapter 19A and these rules.

An employee who has participated in the phased retirement program shall not be eligible for permanent employment for hours in excess of those worked at the time of retirement. An employee who has participated in the early retirement or early termination program shall not be eligible for any state employment.

A person who has served as a commissioner or board member of a regulatory agency shall not be eligible for employment with that agency until two years after termination of the appointment.

581—8.2(19A) Probationary appointment. Probationary appointments may be made only to authorized and established positions unless these rules provide otherwise. Appointments to positions covered by merit system provisions shall be made in accordance with Chapter 7 when applicable.

581—8.3(19A) Project appointment. The director may approve a project appointment to an unauthorized position when a particular job, project, grant, contract, or other employment situation is of limited duration or funding, provided funds are available. Certification shall be in accordance with 581—Chapter 7 when applicable. Persons hired shall be given either probationary, intermittent, statutory, temporary, or permanent status according to the provisions of these rules and shall be subject to these rules and acquire benefits in accordance with the status assigned. The initial appointment of an individual to any one particular project will be approved for no more than one year. The director may extend the appointment. At the expiration of the appointment an employee with permanent status may be transferred, demoted, or promoted to an established position or to another project appointment. Otherwise, an employee covered by merit system provisions shall be subject to a reduction in force; an employee not covered by merit system provisions shall be terminated.

581—8.4(19A) Provisional appointment. If the director is unable to certify the names of at least six available applicants from a nonpromotional eligible list for a position covered by merit system provisions, an appointing authority may provisionally appoint a person who meets the minimum qualifications for the class to fill the position pending the person's examination, certification and appointment from a nonpromotional eligible list. No provisional appointment shall be continued for more than 30 calendar days after an adequate eligible list has been established, nor for more than a total of 180 calendar days after the date of original appointment. No provisional intermittent appointment shall be continued for more than 30 calendar days after an adequate eligible list has been established, nor for more than a total of 120 calendar days after the date of appointment. Successive provisional appointments shall not be permitted. An employee with provisional status shall not be eligible for promotion, demotion, transfer, or reinstatement to any position nor have reduction in force or appeal rights, but provisional probationary employees shall be eligible for vacation and sick leave and other employee benefits. An employee shall receive credit for time spent in provisional status toward the period of probationary status.

581—8.5(19A) Intermittent appointment. Where the scheduling of work requires the services of an employee(s) on an intermittent basis, selection shall be made in accordance with subtitle 7.3(2) when applicable. An intermittent appointment may be made to established intermittent positions or to permanent positions, or on an overlap basis to unauthorized positions.

Eff. 3/30/90

Eff. 3/29/91

Eff. 9/16/87

Eff. 9/16/87

An intermittent appointment shall not exceed 700 work hours in a fiscal year. Hours worked in noncontract classes during the period provided for seasonal appointment in rule 581—8.11(19A) shall not accumulate toward this 700-hour maximum. If appointed to a class requiring certification from an eligible list, intermittent employees may continue to work without recertification in the same class, under the same certification conditions for the same appointing authority in succeeding years. Failure of an appointee to work during any succeeding year shall require recertification for appointment if the position is covered by merit system provisions.

Where intermittent service immediately precedes a probationary appointment in the same class in the same agency in which the intermittent service was performed, the current intermittent service shall constitute a part of the probationary period and shall be credited to a maximum of 120 calendar days. Otherwise, intermittent service shall not be credited toward the probationary period. When intermittent service is credited toward the probationary period, vacation and sick leave shall be given retroactively based on the number of hours worked during the 120 calendar day period immediately preceding the probationary appointment. An intermittent employee may be given a probationary appointment in the same class, agency and location, and under the same certification conditions without recertification.

The acceptance or refusal of an intermittent appointment shall not affect an applicant's standing on an eligible list nor eligibility for a probationary appointment. An intermittent employee shall not be eligible for any right of appeal, transfer, demotion, promotion, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits. An intermittent employee in a contract class shall only be given another temporary type of appointment to the extent that the total number of hours worked in all temporary appointments in a fiscal year does not exceed 700. Prior to accruing 700 hours worked, the employee shall either be given a probationary or permanent appointment, given a temporary appointment in a noncontract class, or terminated.

581—8.6(19A) Reinstatement. A former permanent employee who separated for other than just cause may be reinstated with permanent, probationary, or intermittent status to any class for which qualified at the discretion of an appointing authority. Reinstatement shall not require certification from a list of eligibles. The period of reinstatement eligibility shall be equal to the period of continuous state employment immediately prior to the employee's separation, to a maximum of two years. A former permanent employee who is reinstated with intermittent status shall continue to be eligible for reinstatement with probationary or permanent status during the balance of the original reinstatement period. Current employees are not eligible for reinstatement.

An employee who has participated in the phased retirement program shall not be eligible for reinstatement to permanent employment for hours in excess of those worked at the time of retirement. An employee who has participated in the early retirement or early termination program shall not be eligible for reinstatement to any state employment.

A permanent employee occupying a position covered by merit system provisions that has been changed to be not covered by merit system provisions shall be eligible for reinstatement to a merit system covered position while in the position not covered and for a period equal to the period of the continuous state employment, not to exceed two (2) years, following separation from the position for other than just cause.

A permanent employee who demotes may at any time be reinstated to a position in the class occupied prior to the demotion at the discretion of the appointing authority. Reinstatement shall not require promotional certification from a list of eligibles. The employee shall be paid in accordance with the rules on promotion in subrule 4.5(4).

581—8.7(19A) Emergency appointment. An appointing authority may make an emergency appointment of a person to an unauthorized position without regard to other provisions of these rules governing certification and selection. An employee with emergency status shall work no more than 350 hours for any or all states agencies during a fiscal year. Hours worked in noncontract classes during the period provided for seasonal employment in rule 581—8.11(19A) shall not accumulate toward this 350-hour maximum. An emergency employee

EFF. 9/16/87

EFF. 11/23/90

shall not be eligible for any right of appeal, transfer, demotion, promotion, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits.

An emergency employee in a contract class shall only be given another temporary type of appointment to the extent that the total number of hours worked in all temporary appointments in a fiscal year does not exceed 700. Prior to accruing 700 hours worked, the employee shall either be given a probationary or permanent appointment, given a temporary appointment in a noncontract class or terminated.

581—8.8(19A) Appointments to work-test classes. Persons appointed to positions in work-test classes as provided for in Iowa Code section 19A.9, subsection 23, may be given either probationary, intermittent, emergency, or trainee status, according to provisions in these rules, and shall be subject to rules and acquire benefits according to their status. Employees who have attained permanent status and are subsequently demoted, transferred, or promoted to another permanent position in a work-test class shall retain their permanent status. Persons appointed to positions covered by merit system provisions shall be required to meet the minimum qualifications for the class, but will not require examination or certification.

581—8.9(19A) Trainee appointment. The director may authorize an appointing authority to make a trainee appointment to a permanent position covered by merit system provisions of a person who does not meet the minimum qualifications for the class. The trainee shall be a bona fide student in an accredited educational institution, or enrolled in an agency-affiliated training program approved by the director, and have successfully completed at least one (1) semester, or its equivalent, of instruction. Appointees must be at least fourteen (14) years of age and possess work permits if required. Appointment may be continued up to three (3) semesters or its equivalent, in a two (2)-year period. Employees with trainee status shall have no rights of appeal, transfer, demotion, promotion, reinstatement, or other rights of position; nor be entitled to vacation, sick leave, or other benefits.

581—8.10(19A) Internship appointment. The director may authorize an appointing authority to make an internship appointment to an established position, or if funds are available, to an unauthorized position.

8.10(1) Internship appointments to the class of administrative intern may be made for a period not to exceed one (1) year unless otherwise authorized by the director. Internship appointments to the class of transportation engineer intern shall expire upon attainment of an undergraduate degree.

8.10(2) Employees with internship status shall have no rights of appeal, transfer, demotion, promotion, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits of state employment, nor shall credit be given for future vacation accrual purposes.

8.10(3) Successful completion of an internship appointment of at least three months shall allow the appointee to be certified from a promotional list for any job class for which the appointee qualifies. Only persons formally enrolled in the department's intern development program are eligible to be on promotional lists. Successful completion shall be as determined by the director at the time of enrollment. After initial selection from a promotional certificate, the employee's name shall be removed from promotional lists until the employee has attained permanent status.

581—8.11(19A) Seasonal appointment. The director may authorize an appointing authority to make seasonal appointments to unauthorized positions if funds are available. The pay of employees with seasonal status shall be in accordance with subtitle 4.5(1).

8.11(1) Employees with seasonal status may be appointed beginning in the pay period that includes April 15 and may work until the end of the pay period that includes October 15.

8.11(2) Employees may be appointed to positions in classes approved by the director without regard to merit system provisions.

8.11(3) Employees with seasonal status shall have no rights of appeal, transfer, promotion, demotion, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits.

8.11(4) A seasonal employee in a contract class shall only be given another temporary type of appointment to the extent that the total number of hours worked in all temporary appointments in a fiscal year does not exceed 700. Prior to accruing 700 hours worked, the employee shall either be given a probationary or permanent appointment, given a temporary appointment in a noncontract class, or terminated.

581-8.12(19A) Career executive appointment. The director may authorize an appointing authority to make an appointment to a position covered by subrule 2.2(1) of a permanent employee covered by merit system provisions who is enrolled in the career executive program. Certification shall be in accordance with subrule 7.3(4) with return rights in accordance with subrule 2.2(4).

581-8.13(19A) Rescinding appointments. If, after being appointed, it is found that an employee should have been disqualified or removed as provided for in subrules 5.2(6), 5.2(7), 6.5(2) "d," or rule 581-7.7(19A), the director may rescind the appointment. An employee with permanent status may appeal the director's decision to the public employment relations board. The appeal must be filed within 30 calendar days after the date the director's decision was issued. Decisions by the public employment relations board constitute final agency action. These rules are intended to implement Iowa Code section 19A.9.

Eff. 3/29/91

Eff. 9/16/87

Eff. 9/16/87

581-9.1(19A) Duration. All original full-time or part-time appointments to permanent positions shall require a six-month period of probationary status. Employees with probationary status shall not be eligible for promotional application or certification, reinstatement following separation, or other rights to positions unless provided for in this chapter, nor have reduction in force, recall, or appeal rights. If, during the period of probationary status in a position covered by merit system provisions, the conditions change under which the employee was originally certified, the employee must be eligible for certification in accordance with subrule 7.3(2).

Prior to the expiration of the six-month period of probationary status, the appointing authority must notify the employee, with a copy to the director, if the employee is to be terminated. A six-month period of probationary status may, at the discretion of the appointing authority with notice to the employee and the director, be required upon reinstatement, and all rules regarding probationary status shall apply during that period. The provisions of this chapter shall apply to all executive branch employees, except employees of the board of regents, unless collective bargaining agreements provide otherwise.

581-9.2(19A) Disciplinary actions.

9.2(1) In addition to less severe progressive discipline measures, the appointing authority may demote, suspend, reduce pay within the same pay grade, or discharge an employee during the period of probationary status without right of appeal. The appointing authority shall notify the employee in writing of the effective date of the action, and in the case of a suspension or reduction in pay, the duration of the action. In no case shall suspension extend beyond thirty (30) calendar days, nor beyond the end of the probationary period. A copy of the notice shall be sent to the director by the appointing authority. 9.2(2) Disciplinary demotion during the period of probationary status to a position covered by merit system provisions shall require eligibility for appointment from a list of eligibles in accordance with subrule 7.3(2). However, a probationary employee may be disciplinarily demoted to a position covered by merit system provisions in a work-test class as long as the employee meets the minimum qualifications for the class. The total required period of probationary status shall include the time spent in the higher class. The pay shall be set in accordance with subrule 4.5(7).

581-9.3(19A) Voluntary demotion during the period of probationary status. Voluntary demotion during the period of probationary status to a position covered by merit system provisions shall require eligibility for appointment from a list of eligibles in accordance with subrule 7.3(2). However, a probationary employee may voluntarily demote to a position covered by merit system provisions in a work-test class as long as the employee meets the minimum qualifications for the class. The total required period of probationary status shall include the time spent in the higher class. The pay shall be set in accordance with subrule 4.5(7).

581-9.4(19A) Promotion during the period of probationary status. A probationary employee who is promoted during the period of probationary status to a position covered by merit system provisions shall be certified in accordance with subrule 7.3(2). However, a probationary employee may be promoted to a position covered by merit system provisions in a work-test class as long as the employee meets the minimum qualifications required for the class. The total required probationary period shall include the probationary service in the class from which promoted. The rate of pay shall be set in accordance with subrule 4.5(4).

CHAPTER 9
PROBATIONARY PERIOD
(Effective 12/10/86)

APR 19 1991

581—9.5(19A) Transfer during the period of probationary status. A probationary employee who is transferred during the period of probationary status by the appointing authority to a position covered by merit system provisions must be eligible for certification in accordance with subrule 7.3(2) unless the transfer is to a position in the same class, in the same location, and under the same conditions for which the employee was originally certified. However, a probationary employee may be transferred to a position covered by merit system provisions in a work-test class as long as the employee meets the minimum qualifications required for the class. The total required period of probationary status shall include the probationary time spent in the class from which transferred. The rate of pay shall be set in accordance with subrule 4.5(9).

581—9.6(19A) Reclassification during the period of probationary status. An employee who is reclassified during the period of probationary status must be eligible for certification in accordance with subrule 7.3(2) if the new position is covered by merit system provisions. However, an employee who is reclassified to a work-test class need only meet the minimum qualifications for the class if the position is covered by merit system provisions. The total required period of probationary status shall include the probationary time spent in the previous class. The rate of pay shall be set in accordance with subrule 4.5(10).

EFF. 11/24/89 **581—9.7(19A) Leave without pay during the period of probationary status.** A probationary employee may be granted leave without pay at the appointing authority's discretion in accordance with these rules. If the period of leave without pay, including military leave, exceeds 30 continuous calendar days, the period of probationary status shall be extended by the amount of leave granted.

581—9.8(19A) Vacation and sick leave during the period of probationary status. Probationary employees shall accrue and be granted vacation and sick leave in accordance with the provisions of these rules.

581—9.9(19A) Probationary period for promoted permanent employees. This rule shall only apply to promotion within an appointing authority's jurisdiction to positions covered by merit system provisions. A permanent employee may be required to serve a six-month probationary period in the class to which promoted before the promotion becomes permanent. At any time during the promotional probationary period the appointing authority may return the employee to the formerly held class. Return under this probation shall not be considered a demotion and there shall be no right to an appeal. The former salary and pay increase eligibility date shall be restored with credit allowed for the time spent in the higher class. These rules are intended to implement Iowa Code section 19A.9.

581—10.3(19A) Temporary assignments. 10.3(1) An appointing authority may assign a permanent employee to special duty when that employee is temporarily needed in a position in another class. This assignment shall be without prejudice to the employee's rights in or to the regularly assigned position. Unless there is a statutory requirement to the contrary, the employee need not be qualified for, nor certified to the class to which temporarily assigned.

10.3(2) An appointing authority may temporarily assign a permanent employee duties that are extraordinary for the employee's class. These duties may be of a level higher than, lower than, or similar to the duties regularly assigned to the employee's class, and may be in addition to or in place of some or all of the employee's regularly assigned duties.

10.3(3) Additional pay may be requested by the appointing authority when:

- a. A special duty assignment is to a class in a higher pay grade;
- b. A special duty assignment is from a nonsupervisory to a supervisory class having the same pay grade;
- c. Extraordinary duties are assigned that are of a level higher than the duties assigned to the class to which the employee is allocated; or
- d. Supervisory duties are assigned to an employee whose regular assignment is in a non-supervisory class.

When approved, additional pay shall be paid in accordance with subrule 4.5(6).

EFF. 9/16/87

581—10.2(19A) Transfer. An appointing authority may transfer an employee. Transfers may be intra-agency or interagency, and may be voluntary or involuntary. The employee must meet the current minimum qualifications for the class if the position to which transferred is covered by merit system provisions. Transfer of an employee with probationary status to a position covered by merit system provisions shall be in accordance with rule 581—9.5(19A). An employee who refuses an agency directed transfer may be disciplined in accordance with rule 581—11.2(19A). If the discipline results in the employee's discharge, if the employee had permanent status, and if the transfer would have been in excess of 25 miles, the employee shall have recall rights in accordance with subrule 11.3(6), paragraph "c."

An appointing authority may not transfer an employee from a position covered by merit system provisions to a position not covered by merit system provisions without the affected employee's written consent regarding the change in merit system coverage. A copy of the consent letter shall be forwarded by the appointing authority to the director. If the employee does not consent to the change in coverage, a reduction in force may be initiated in accordance with these rules or the applicable collective bargaining agreement provisions.

EFF. 3/30/90

581—10.1(19A) Promotion. 10.1(1) An agency may promote an employee with permanent status into a position covered by merit system provisions if the employee meets the minimum qualifications for the class. When required, the employee must be on the list of eligibles for the class and available under the conditions stated on the certificate request.

10.1(2) An agency may promote an employee into a position not covered by merit system provisions in accordance with the agency's promotional policies.

10.1(3) Agencies shall collect and maintain data on the characteristics of applicants considered for promotion in accordance with equal employment opportunity and affirmative action reporting requirements and these rules.

CHAPTER 10
PROMOTION, TRANSFER, TEMPORARY ASSIGNMENT
AND VOLUNTARY DEMOTION
(Effective 12/10/86)

10.3(4) Requests shall be submitted to the director in writing for assignments to special duty or extraordinary duty that exceed three complete pay periods, explaining the need and the period of time requested. Temporary assignments shall not initially be approved for a period longer than one year. Extensions may be requested. Requests shall be submitted on forms prescribed by the director.

10.3(5) An appointing authority may make temporary assignments without additional pay for up to three consecutive pay periods in a fiscal year. Approval for temporary assignments without additional pay beyond three consecutive pay periods may be granted by the director.

10.3(6) An appointing authority shall provide restricted duty work assignments, without change to an employee's class and regular pay rate, for those employees who have a medical release to return to restricted duty following a job-related illness or injury. The original period of restricted duty shall be the hourly equivalent of 20 work days (which shall be on a pro rata basis for part-time employees), or until the employee is medically released for full duty, whichever is less. Extensions to the original period may be requested by the appointing authority and shall be subject to the approval of the director. Exceptions to this subrule must be approved by the director.

581-10.4(19A) Voluntary demotion. An appointing authority may grant an employee's written request for a demotion to a lower class. If the voluntary demotion involves movement from a position covered by merit system provisions to one that is not, the request must clearly indicate the employee's knowledge of the change in merit system coverage. If the employee objects to the change in coverage, the demotion shall not take effect. Also, no demotion shall be made from one position covered by merit system provisions to another, or from a position not covered by merit system provisions to one that is, until the employee is approved by the director as being eligible for appointment. A copy of the voluntary demotion request shall be sent by the appointing authority to the director at the time of the demotion. Voluntary demotion may be either intra-agency or interagency, and shall not be subject to appeal under these rules.

Voluntary demotion of an employee with probationary status to a position covered by merit system provisions shall be in accordance with rule 581-9.3(19A).

EFF. 3/30/90

EFF. 7/1/88

EFF. 9/16/87

581-11.1(9A) Separations.

11.1(1) Resignation, retirement, phased retirement, early retirement, or early termination.

a. To resign or retire in good standing an employee must give the appointing authority at least 14 calendar days' prior notice unless the appointing authority agrees to a shorter period. A written notice of resignation or retirement shall be given by the employee to the appointing authority, with a copy forwarded to the director by the appointing authority at the same time. An employee who fails to give this prior notice may, at the request of the appointing authority, be barred from certification or appointment to that agency for a period of up to two years. Resignation or retirement shall not be subject to appeal under Chapter 12 unless it is alleged that it was submitted under duress.

Employees who are absent from duty for three consecutive workdays without proper authorization from the appointing authority shall notify the employee by registered letter (return receipt requested) that they must return to work within two workdays following receipt of the notification or be removed from the payroll. If the appointing authority receives notice from the U.S. post office that the letter was undeliverable, the employee may be removed from the payroll five days following receipt of that notice. The appointing authority shall consider requests to review circumstances.

b. A full-time employee who is at least 60 years of age and who has completed at least 20 years as a full-time employee may, with approval of the appointing authority, participate in the phased retirement program. The request for participation shall specify the number of hours per week the employee intends to work for each year of the program.

Participants shall be in pay status a maximum of 32 hours per week and a minimum of 20 hours per week during the first four years in the program. After the completion of four years in the program, participants shall be in pay status a maximum of 20 hours per week. An employee may not increase the number of hours in pay status once a reduction has been made. An employee may participate for a maximum of five years in the program.

An employee participating in the phased retirement program shall receive holiday pay and accrue vacation and sick leave on a pro rata basis in accordance with the number of hours in pay status in the pay period. During the period of participation in the program, all other benefits shall be commensurate with full-time employment.

Participation in the phased retirement program shall serve as a written notice of intent to retire on the date specified in the agreement unless the employee retires, resigns, is discharged, or receives long-term disability prior to that date. Participants are eligible to elect early retirement or early termination incentives in lieu of completing the phased retirement agreement. An employee who participates in the phased retirement program shall not be eligible to return to permanent employment for hours in excess of those worked at the time of retirement.

c. Employees who received early retirement or early termination incentives provided by the 1986 Iowa Acts, Senate File 2242, shall not be eligible for further state employment.

d. Separation from employment for purposes of induction into military service shall be in accordance with subrules 14.6(2) and 14.9(2).

e. A person who has served as a commissioner or board member of a regulatory agency shall not be eligible for employment with that agency until two years after termination of the appointment.

11.1(2) Expiration of appointment. When an employee is separated upon the expiration of an appointment of limited duration, the appointing authority shall immediately report the separation to the department on forms prescribed by the director.

Eff. 12/10/86

Eff. 9/16/87

Eff. 7/1/88

Eff. 12/10/86

Eff. 9/1/89

Eff. 3/30/90

CHAPTER 11
SEPARATIONS, DISCIPLINARY ACTIONS
AND REDUCTION IN FORCE

Eff. 9/16/87

581-11.2(19A) Disciplinary actions. In addition to less severe progressive discipline measures, any employee is subject to any of the following disciplinary actions when based on a standard of just cause: suspension; reduction of pay within the same pay grade; disciplinary demotion; or discharge. Disciplinary action involving employees covered by collective bargaining agreements shall be in accordance with the provisions of the agreement. Disciplinary action shall be based on any of the following reasons: inefficiency, insubordination, less than competent job performance, failure to perform assigned duties, inadequacy in the performance of assigned duties, dishonesty, improper use of leave, unrehabilitated substance abuse, negligence, conduct which adversely affects the employee's job performance or the agency of employment, conviction of a crime involving moral turpitude, conduct unbecoming a public employee, misconduct, or any other just cause.

Eff. 10/26/88

11.2(1) Suspension. An appointing authority may suspend an employee for a length of time considered appropriate not to exceed 30 calendar days. Suspensions shall be without pay except that an appointing authority may suspend an employee for up to 14 calendar days with pay pending an investigation. If, upon investigation, the decision is that a suspension without pay was warranted, the appointing authority shall recover the pay received by the employee for the imposed period of suspension without pay. A written statement of the reasons for the suspension and its duration shall be sent to the employee within 24 hours after the effective date of the action, and a copy shall be sent to the director by the appointing authority at the same time.

Eff. 12/10/86

11.2(2) Reduction of pay within the same pay grade. An appointing authority may reduce the pay of an employee to a lower step or rate of pay within the same pay grade assigned to the employee's class for any number of pay periods considered appropriate. A written statement of the reasons for the reduction and its duration shall be sent to the employee within 24 hours after the effective date of the action, and a copy shall be sent to the director by the appointing authority at the same time.

Eff. 3/30/90

11.2(3) Disciplinary demotion. An appointing authority may disciplinarily demote an employee to a vacant position. In the absence of a vacant position, the appointing authority may effect the same disciplinary result by removing duties and responsibilities from the employee's position sufficient to cause it to be reclassified to a lower class. A written statement of the reasons for the disciplinary demotion shall be sent to the employee within 24 hours after the effective date of the action, and a copy shall be sent to the director by the appointing authority at the same time.

No disciplinary demotion shall be made from one position covered by merit system provisions to another, or from a position not covered by merit system provisions to one that is, until the employee is approved by the director as being eligible for appointment. Disciplinary demotion of an employee with probationary status to a position covered by merit system provisions shall be in accordance with subrule 9.2(2).

An agency may not disciplinarily demote an employee from a position covered by merit system provisions to a position not covered by merit system provisions without the affected employee's written consent regarding the change in coverage. A copy of the consent letter shall be forwarded by the appointing authority to the director. If the employee does not consent to the change in coverage, a reduction in force may be initiated in accordance with these rules or the applicable collective bargaining agreement provisions.

Eff. 3/30/90

11.2(4) Discharge. An appointing authority may discharge an employee. Prior to the employee being discharged, the appointing authority shall inform the employee during a face-to-face meeting of the impending discharge and the reasons for the discharge, and at that time the employee shall have the opportunity to respond. A written statement of the reasons for the discharge shall be sent to the employee within 24 hours after the effective date of the discharge, and a copy shall be sent to the director by the appointing authority at the same time.

EFF. 12/10/86 When an employee has been qualified and appointed to a position covered by merit system provisions based upon the required possession of a temporary work permit or on the basis of possession of a license or certificate, and that document expires, is revoked or is otherwise determined to be invalid, the employee shall either be discharged for failure to meet or maintain license or certificate requirements, or otherwise appointed to another position in accordance with these rules. This action shall be effective no later than the pay period following the failure to obtain, revocation of, or expiration of the permit, license, or certificate.

EFF. 9/16/87 11.2(5) Appeal of a suspension, reduction of pay within the same pay grade, disciplinary demotion or discharge shall be in accordance with Chapter 12 of these rules. The written statement to the employee of the reasons for the discipline shall include the verbatim content of subrule 12.2(6).

EFF. 7/19/91 581-11.3(19A) Reduction in force. A reduction in force shall be required whenever the appointing authority reduces the number of permanent merit system covered employees in a class or the number of hours worked by permanent merit system covered employees in a class except as provided in subrule 11.3(1).

EFF. 3/30/90 At the discretion of the appointing authority, and with the prior approval of the director, permanent employees and positions not covered by merit system provisions may be included in a reduction in force and, if so, those employees shall be covered by this rule and they shall have the same rights as those extended to employees in positions covered by merit system provisions.

EFF. 6/11/92 11.3(1) The following agency actions shall not constitute a reduction in force nor require application of these reduction in force rules:

- a. An interruption of employment for no more than 20 consecutive calendar days with the approval of the director.
- b. Interruptions in the employment of school term employees during breaks in the academic year or during the summer, or other seasonal interruptions that are a condition of employment with the approval of the director.
- c. The promotion, or reclassification of an employee to a class in a higher pay grade.
- d. The reclassification of an employee's position to a class in a lower pay grade that results from the correction of a classification error, a class or series revision, or the gradual evolution of changes in the position.

EFF. 9/16/87 e. When a change in the classification of an employee's position, or the appointment to a vacant position is the result of a disciplinary or voluntary demotion of an employee to a class in a lower pay grade.

f. The transfer of an employee to another position in the same class or a class in the same pay grade.

11.3(2) The agency's reduction in force shall conform to the following provisions:

- a. Reduction in force shall be by class.
- b. The reduction in force unit may be by agency organizational unit or agencywide as approved by the director.
- c. An agency shall not implement a reduction in force until it has first terminated all temporary employees in the same class in the reduction in force unit as those who have probationary status.

EFF. 6/11/92 d. The appointing authority shall develop a plan for the reduction in force and shall submit that plan to the director for approval in advance of the effective date requested. The plan shall include the reasons for and the date of the reduction in force, the reduction in force unit(s), the reasons for choosing the unit(s) if smaller than a division including specific information as to why employees in the unit are not interchangeable with other units, the number of employees to be eliminated or reduced in hours by class, the cutoff date for the crediting of retention points, and any other information requested by the director. If determined by the appointing authority to be applicable, the plan shall also include exemptions from reduction in force or the effects of bumping resulting from the reduction in force where special skills or abilities are required.

Eff. 6/11/92

e. The appointing authority shall post each reduction in force plan in conspicuous places throughout the reduction in force unit. The posting shall include the total retention points of affected employees within the reduction in force unit that are not covered by a collective bargaining agreement. The appointing authority shall notify each affected employee in writing of the reduction in force, the reason(s) for it, and the employee's rights under these rules. A copy of the employee's total retention point computation worksheet shall also be furnished. These official notifications shall be made at least 20 working days prior to the effective date of the reduction in force unless budgetary limitations require a lesser period of time. These official notifications shall occur only after the agency's reduction in force plan has been approved by the director unless otherwise authorized by the director.

f. The appointing authority shall notify the affected employee, in writing, of the options or assignment changes during the various steps in the reduction in force process. In each instance the employee shall have five calendar days from the date of receipt of the notification in which to respond in writing to the appointing authority in order to exercise the rights provided for in this rule that are associated with the reduction in force.

Eff. 12/10/86

11.3(3) Retention points. The reduction in force shall be in accordance with total retention points made up of a combination of points for length of service and performance computed to the nearest hundredth (.01) decimal place. A cutoff date shall be set by the appointing authority beyond which no points shall be credited. The date shall be no less than 60 nor more than 90 days prior to the effective date of the reduction in force. Length of service and performance evaluation points shall be calculated as follows:

Eff. 12/10/86

a. Credit for length of service shall be given at the rate of one point for each month of employment (including employment credited toward the probationary period). More than 15 calendar days shall be considered one month. When computing length of service points, the appointing authority shall include all continuous state service in the executive branch from the original date of hire to the cutoff date, except that employees who separated and returned to employment prior to November 10, 1970, shall be allowed to count prior service credit if credit was granted when reemployed. Length of service credit shall be minus the following periods:

(1) Emergency, internship, intermittent, trainee, seasonal or other temporary types of appointments if not credited toward the probationary period;

(2) Suspensions without pay;

(3) Documented leaves of absence without pay in excess of 30 calendar days except for military leave, workers' compensation leave and employer directed educational leave with or without pay;

(4) Board of regents, nonexecutive branch or nonstate service unless Acts of the general assembly require otherwise;

(5) Layoffs in excess of 30 calendar days; and

(6) Long-term disability periods in excess of 30 calendar days. A former employee who was laid off, or who applied for or received long-term disability payments, and subsequently returned to state employment after two years from the date of separation, shall not be eligible for prior service credit. A former employee who was laid off and who subsequently lost recall rights due to declination, or who was reemployed but subsequently terminated, is not eligible for prior service credit if later reemployed other than by recall during the same two-year period.

Length of service credit for all periods of part-time service in excess of 30 calendar days shall be calculated on a pro rata basis.

Eff. 12/10/86

b. Performance evaluation credit commencing on July 1, 1969, until a date four years prior to the reduction in force cutoff date shall be calculated at the rate of two points for each month of a performance evaluation period rated as competent or above using a performance evaluation plan approved by the director. No points shall be given for any months where performance was evaluated as less than competent.

For the four-year period prior to the reduction in force cutoff date an employee shall receive three points for each month rated one or more levels above competent, two points for each month rated as competent and no points for any months rated as less than competent.

When calculating performance evaluation points the following shall apply:

- (1) A performance evaluation period rated as competent shall be an "overall sum of ratings" of at least 3.00 but less than 4.00;
- (2) A performance evaluation period which is rated one or more levels above competent shall be an "overall sum of ratings" equal to or greater than 4.00; and
- (3) A performance evaluation period rated as less than competent shall be an "overall sum of ratings" less than 3.00.

All employees shall be evaluated for performance at least annually in accordance with subrule 13.2(2). If not evaluated, or if not evaluated in accordance with subrule 13.2(2), that period shall be calculated as though competent. A performance evaluation shall be used for calculating retention points only if it is completed, signed, and dated by the supervisor within 60 days following the end of the evaluation period. If the period covered on the evaluation exceeds 12 months the rating shall only apply to the most recent 12 months of the period. Time spent on approved military leave, workers' compensation leave, or educational leave required by the appointing authority shall be counted as competent performance. Performance evaluation credit for all periods of part-time service in excess of 30 consecutive calendar days shall be calculated on a pro rata basis. Periods of state employment excluded from length of service credit shall also be excluded from performance credit. More than 15 calendar days in a performance evaluation period shall be considered one month.

During the period between the cutoff date and the effective date of the reduction in force, only performance evaluations that were due during that period shall be used for crediting retention points prior to the cutoff date unless special performance evaluations are done on all employees affected by the layoff. Otherwise, the rating received on the last valid performance evaluation for the previous rating period shall be brought forward for the current period not evaluated. If no valid performance evaluation exists for the previous rating period, both periods shall be counted as competent performance. In no instance shall performance evaluation points be credited beyond the cutoff date.

c. The total reduction in force retention points shall be the sum that results from adding together the total of the length of service points and the total of the performance evaluation points.

11.3(4) *Order of reduction in force.* Employees in the approved reduction in force unit shall be placed on a list by class beginning with the employee having the highest total retention points in the class in the unit. Reduction in force shall be made from the list in inverse order regardless of full-time or part-time status. If two or more employees have the same combined total retention points, the order of reduction shall be determined by giving preference in the following sequence:

- a. The employee with the highest total performance evaluation points; and then
- b. The employee with the lower last four digits of the social security number.

An agency may request exemption from the reduction in force for employees in positions that require special skills and abilities. This must be limited to situations where it is essential for the employees to possess those special requirements in order to competently perform the duties of the position, and where there is no other employee possessing those special requirements who has more retention points than the employee who is being exempted and who would otherwise be displaced. Selection for exemption shall be in retention point order.

Eff. 12/10/86
Eff. 9/16/87
Eff. 6/27/86

Eff. 12/10/86

Eff. 12/10/86

11.3(5) *Class change in lieu of layoff (bumping).* Employees who are affected by a reduc-

Eff. 12/10/86

tion in force may, in lieu of layoff, elect to exercise bumping rights.

Eff. 6/11/92

a. Employees who choose to exercise bumping rights must do so to a position in the reduc-
tion in force unit. Bumping may be to a lower class in the same series or to a formerly held
class (or its equivalent if the class has been retitled) in which the employee had nontemporary
status while continuously employed in the state service. Bumping shall not be permitted to
classes from which employees were voluntarily or disciplinarily demoted. Bumping by non-
supervisory employees shall be limited to positions in nonsupervisory classes. Bumping shall
be only to positions covered by merit system provisions unless nonmerit positions or employees,
or both, have been included in the reduction in force by the appointing authority. The direc-
tor may, at the request of the appointing authority, approve specific exemptions from the effects
of bumping where special skills or abilities are required.

Eff. 6/11/92

b. If bumping as set forth in paragraph "a" of this subrule would require an employee to
move from a merit system covered position to a position not covered by merit system provisions,
the employee may decline movement to that position and may exercise other bumping rights. In
all other instances, the employee shall indicate the class, but the appointing authority shall
designate the specific position assignment within the reduction in force unit. The appointing
authority may designate a vacant position if the department of management certifies that funds
are available and after all applicable contract transfer and recall provisions have been exhausted.
The appointing authority shall notify the employee in writing of the exact location of the posi-
tion to which the employee will be assigned. After receipt of the notification the employee
shall have five calendar days in which to notify the appointing authority in writing of the
acceptance of the position or be laid off.

Bumping to another class in lieu of layoff shall be based on retention points regardless of
full-time or part-time status and shall not occur if the result would be to cause the removal
or reduction of an employee with more total retention points. If bumping occurs, the em-
ployee with the least total retention points in the class shall be subject to reduction in force.
Bumping to another class in lieu of layoff from a class covered by a collective bargaining
agreement to a class not covered by a collective bargaining agreement, or vice versa, shall only
occur if the move can be accomplished in accordance with the reduction in force order (reten-
tion points or seniority date) governing the class into which the employee moves.

Pay upon bumping shall be in accordance with 581—subrule 4.5(1), paragraph "f."
11.3(6) *Recall.* Eligibility for recall shall be for one year from the date of the reduction
in force or the medical release to return to work and shall be based on the employee's total
retention points. If two or more employees have the same number of retention points, prefer-
ence shall be in accordance with subrule 11.3(4), paragraphs "a" and "b."

Eff. 7/1/88

Eff. 7/1/88

a. The following employees or former employees are eligible to be recalled:
(1) Former employees who have been laid off.
(2) Employees who have bumped in lieu of layoff.
(3) Employees whose hours have been reduced.
(4) Former employees whose employment was terminated for medically related reasons and
whose long-term disability benefits have been terminated and who have been medically released
to return to work.

(5) Former employees who have exhausted their vacation leave, sick leave, and compensa-
tory leave due to a job-related illness or injury and who have been terminated for medically
related reasons or current employees who are unable to return to their former class because
of a job-related illness or injury. Employees and former employees covered in this subrule
must have been medically released to return to work.
b. Current employees listed in subrule 11.3(6), paragraph "a," subparagraphs (2) and (3)
shall only be on the recall list for the class and layoff unit at the time of the reduction in force.

Eff. 7/1/88

Eff. 6/11/92 c. Former employees covered in paragraph "a," subparagraphs (1), (4), and (5), and current employees covered in paragraph "a," subparagraph (5), may be on the recall list for the following classes and under the following conditions:

- (1) Class (or equivalent if retired) held at the time of the reduction in force or termination;
- (2) Any classes (or equivalent if retired) held prior to the reduction in force or termination, except classes from which voluntarily or disciplinarily demoted;
- (3) Other classes for which the employee qualifies that are at the same or lower pay grade in relation to the class from which laid off.

The following provisions apply to the selection of recall classes:

1. The total number of classes for which the employee is eligible for recall, including the employee's layoff class and formerly held classes, may not exceed 26.
2. Employees may not designate particular agencies to which they will or will not accept recall.
3. Nonsupervisory employees may only select classes for which qualified that are nonsupervisory.

4. Employees listed in subrule 11.3(6), paragraph "a," subparagraphs (4) and (5), may be required to furnish copies of their notification of termination of long-term disability benefits or their medical release to return to work.
5. Employees recalled to a class not previously held shall be required to serve a six-month probationary period during which time the employee may be terminated without right of appeal and the employee's original recall record restored to the recall list for the remainder of the one year recall eligibility period.
6. Requests to change classes or conditions of availability must be submitted in writing to the department.

Eff. 6/11/92

- d. The following provisions shall apply to the issuance and use of recall certificates:
 - (1) When one or more names are on the recall list for a class in which a vacancy exists, the agency filling that vacancy must first offer the position to former employees on that list who were laid off by that agency. Recall offers shall be in descending order according to retention points. If no one is available on such a recall certificate, the agency filling the vacancy shall next request the recall certificate provided for in 11.3(6), "d"(2).
 - (2) An agency shall consider recalling former employees on the recall list who were laid off by agencies other than the one filling the vacancy. If no one from such a recall certificate is selected, the agency shall justify that decision to the director before the position may be filled otherwise.
 - (3) Recall alternatives shall be exhausted before other eligible lists may be used to fill vacancies.

Former employees listed in subrule 11.3(6), paragraph "a," subparagraphs (4) and (5), having received a medical release to perform the duties of a position, shall be considered and their medically related work restrictions shall be reasonably accommodated.

Eff. 7/1/88

e. Recall shall be by class without regard to an employee's status (full-time or part-time) or position type (merit or nonmerit system covered).

Eff. 7/1/88

An employee may remain on the recall list for the same status and type of position as that held at the time of layoff after having declined recall once to a position with a different status or position type. However, the employee will be removed for the status or position type declined. *f.* One failure to accept appointment to a nontemporary position with the same status and position type as that held prior to the reduction in force or termination for purposes of long-term disability or job-related illness or injury shall negate all further rights to recall. *g.* An appointing authority may refuse to recall employees who do not possess the special qualifications required of a position with the approval of the director. *h.* Employees must respond to an offer of recall within five calendar days following the notice of recall. The declination of a recall offer shall be documented in writing by the appointing authority, with a copy to the director. *i.* Vacation accrual and accrued sick leave of recalled employees shall be in accordance with subrule 14.2(2), paragraph "1," and subrule 14.3(10), respectively. *j.* An employee who bumps in lieu of layoff or has a work hours reduction, and subsequently leaves employment for any reason, shall be removed from the recall list. *k.* Employees on the recall list who are reemployed other than by recall, and who subsequently leave state employment for any reason, shall be removed from the recall list. Employees who are recalled shall be removed from the recall list unless otherwise provided for in these rules. *l.* Pay upon recall shall be in accordance with 581—subrule 4.5(1), paragraph "e."

Eff. 6/11/92
Eff. 12/10/86

11.3(7) Reduction in force shall not be used to avoid or circumvent the provisions or intent of Iowa Code chapter 19A, or these rules governing reclassifications, disciplinary demotions, or discharges. Actions alleged to be in noncompliance with this rule may be appealed in accordance with chapter 12 of these rules. *11.3(8)* Employees covered by a collective bargaining agreement shall be governed by the terms of that contract for reduction in force purposes.

(1) Class held and layoff unit at the time of the reduction in force or termination (or the equivalent if retired).

(2) Any classes (or the equivalent if retired) held prior to the reduction in force or termination and the employee was laid off or terminated from that layoff unit.

(3) Other classes in any layoff units other than those listed in subparagraph (1) or (2) of this paragraph.

Former employees listed in subrule 11.3(6), paragraph "a," subparagraphs (4) and (5) shall be reasonably accommodated when changes in position duties are required by a restricted medical release.

e. Recall shall be by class without regard to an employee's status (full-time or part-time) or position type (merit or nonmerit system covered).

An employee may remain on the recall list for the same status and type of position as that held at the time of layoff after having declined recall once to a position with a different status or position type. However, the employee will be removed for the status or position type declined.

f. One failure to accept appointment to a nontemporary position with the same status and position type as that held prior to the reduction in force or termination for purposes of long-term disability or job-related illness or injury shall negate all further rights to recall.

g. An appointing authority may refuse to recall employees who do not possess the special qualifications required of a position with the approval of the director.

h. Employees must respond to an offer of recall within five calendar days following the notice of recall. The declination of a recall offer shall be documented in writing by the appointing authority, with a copy to the director.

i. Vacation accrual and accrued sick leave of recalled employees shall be in accordance with subrule 14.2(2), paragraph "f," and subrule 14.3(10), respectively.

j. An employee who bumps in lieu of layoff or has a work hours reduction, and subsequently leaves employment for any reason, shall be removed from the recall list.

k. Employees on the recall list who are reemployed other than by recall, and who subsequently leave state employment for any reason, shall be removed from the recall list. Employees who are recalled shall be removed from the recall list unless otherwise provided for in these rules.

11.3(7) Reduction in force shall not be used to avoid or circumvent the provisions or intent of Iowa Code chapter 19A, or these rules governing reclassifications, disciplinary demotions, or discharges. Actions alleged to be in noncompliance with this rule may be appealed in accordance with chapter 12 of these rules.

11.3(8) Employees covered by a collective bargaining agreement shall be governed by the terms of that contract for reduction in force purposes.

Eff. 12/10/86

Eff. 7/1/88

Eff. 7/1/88

12.1(3) *Group grievances.* When the appointing authority or the director determines that two (2) or more grievances or grievances address the same or similar issues, they shall be processed and decided as a group grievance.

12.1(4) *Grievance meetings.*

a. When it is determined by a designated management representative or the director that a meeting with the grievant will be held, all reasonable attempts will be made to hold the meeting during the grievant's regularly scheduled hours of work.

b. The grievant may be represented at a grievance meeting by an employee of the grievant's choosing except where that would constitute a conflict of interest. A grievant who wishes to be represented and whose class is covered by a collective bargaining agreement may only be represented by an appointed or elected union representative from the same employee organization as the grievant. A grievant who wishes to be represented and whose class is not covered by a collective bargaining agreement may only be represented by the grievant.

c. The grievant, an employee who is the grievant's representative, and employees authorized same bargaining status as the grievant.

d. The appointing authority shall not authorize mileage, or the use of a state vehicle for employees to attend or participate in a grievance meeting, except for those employees who are required to attend or participate in the meeting by the appointing authority or the director. In the case of group grievances, only one of the grievants shall be in paid status.

12.1(5) *Bypassing steps for discrimination grievances.* A grievance step may be bypassed by the grievant when the grievance alleges discrimination and the respondent at the step is the person against whom the grievance has been filed.

581-12.2(19A) *Appeals.*

12.2(1) *Appeal of position classification decisions.*

a. Appeal of a position classification decision shall be in accordance with rule 581-3.5(19A) and the contested case provisions of Iowa Code chapter 17A.

b. The appellant (including all appellants in the case of a group hearing), an employee who is the appellant's representative, and employees directed by the appointing authority to attend the classification appeal hearing by the appointing authority or the director shall be in paid status for the time spent at and traveling to and from the hearing during their regularly scheduled hours of work. In addition, only employees directed by management to attend the hearing shall, if eligible for overtime compensation, be in paid status for the time spent at and traveling to and from the hearing outside of their regularly scheduled hours of work.

c. The appointing authority shall not authorize mileage or the use of a state vehicle for employees to attend or participate in a classification appeal hearing, except for those employees who are directed to attend the hearing by the appointing authority or the director.

d. A permanent employee whose position has been reclassified downward and who alleges that the position classification process has been used to circumvent a reduction in force as provided for in rule 581-11.3(19A) may appeal in writing to the director. Right of appeal shall expire unless filed with the director within 14 calendar days following the date on the final position classification notice or, in the event of a classification appeal hearing, the classification appeal committee decision notice. If the director finds for the appellant, the appointing authority shall either submit a reduction in force plan or reassign duties to the appellant sufficient to retain the appellant's prior position classification.

Eff. 3/30/90

12.2(2) *Appeal of disqualification.* Rescinded IAB 2/21/90, effective 3/30/90.

12.2(3) *Appeal of examination rating.* Following examination, an applicant may file a written appeal to the employment appeal board in the department of inspections and appeals for a review of the rating received on the examination for the sole purpose of assuring that uniform rating procedures were applied consistently and fairly. Right of appeal shall expire unless filed with the board within 30 calendar days following the notice of the examination results.

A rating on an examination may be corrected if it is found by the employment appeal board that is a substantial error has been made by the department. The correction of a rating shall not, however, affect any certifications or appointments already made.

12.2(4) *Appeal of disqualification, or restriction or removal from eligible lists.* An applicant who has been disqualified or whose name has been restricted or removed from an eligible list in accordance with subrule 5.2(6) or 6.5(2), paragraph "d," or who has been restricted from certification in accordance with rule 581—7.7(19A) may file a written appeal to the employment appeal board in the department of inspections and appeals for a review of that action. The written appeal must be filed with the board within 30 calendar days following the notice of disqualification, or removal from the eligible list, or restriction from certification. The burden of proof to establish eligibility shall rest with the appellant.

When an appeal is generated as the result of an action initiated by the department, the department shall be responsible for representation. When an appeal is generated as the result of an action initiated by an appointing authority through the department, the appointing authority shall pay the costs of the appeal assessed to the department and shall participate in representation as requested by the department.

If the applicant's name is restored to an eligible list, it shall not affect any certifications or appointments already made.

12.2(5) *Appeal of grievance decisions.* An employee who has alleged a violation of Iowa Code chapter 19A or the rules adopted to implement chapter 19A may, within 30 calendar days after the date the director's response at the third step of the grievance procedure was issued or should have been issued, file an appeal with the public employment relations board. However, when the grievance concerns allegations of discrimination within the meaning of Iowa Code chapter 601A, the Iowa civil rights commission procedures shall be the exclusive remedy for appeal and shall, in such instances, constitute final agency action. In all other instances, decisions by the public employment relations board constitute final agency action.

12.2(6) *Appeal of disciplinary actions.* Any nontemporary, noncontract employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, shall bypass steps one and two of the grievance procedure provided for in rule 581—12.1(19A) and may file an appeal in writing to the director for a review of the action within 14 calendar days after the effective date of the action. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal.

If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board. The request must be filed within 30 calendar days after the date the director's decision was issued or should have been issued. Decisions by the public employment relations board constitute final agency action.

12.2(7) *Appeal of reduction in force.* An employee who is to be or has been laid off or who has changed classes in lieu of layoff, and who alleges that the reduction in force was used to circumvent the rights of appeal provided for in subrule 12.2(6) or subrule 12.2(1), paragraph "a," or "d," may file an appeal with the director within 30 calendar days following receipt of the notice of reduction in force to the employee from the appointing authority.

12.2(8) *Remedies.* All remedies provided in rule 581—12.2(19A) must be exhausted pursuant to Iowa Code section 17A.19, subsection 1, prior to petition for judicial review.

Eff. 7/1/88

Eff. 7/20/90

Eff. 1/17/92

Eff. 3/30/90

581—12.3(19A) Informal settlement. The director or an appellant may request that an informal conference be held to determine if a dispute can be resolved in a manner agreeable to all parties prior to a contested case hearing. If the director and the appellant agree to negotiate a settlement, the various points of the proposed settlement shall be included in a written statement of facts. Negotiations for a settlement shall be completed at least five workdays prior to the date of the contested case hearing, unless additional time is agreed to by the director, the appellant and the public employment relations board, the department of inspections and appeals, or the classification appeal committee, as applicable. The settlement shall be binding when approved and signed by both the director and the appellant.

CHAPTER 13
PERFORMANCE PLANNING AND EVALUATION

(Eff. 12-10-86)

581—13.1(19A) System established. The director shall establish, administer and maintain a uniform system of performance planning and evaluation to be applied to all employees in the executive branch of state government, excluding board of regents employees, and shall prescribe forms and procedures for its use. The appointing authority shall prescribe the job duties to be performed by employees.

581—13.2(19A) Minimum requirements.

13.2(1) Performance plan. The performance plan shall be based on the responsibilities assigned by the supervisor during the evaluation period and shall include the standards required for performance to be considered competent. The performance plan shall be given to and discussed with the employee at the beginning of the evaluation period. Significant changes in responsibilities or standards that occur during the evaluation period shall be included in the performance plan, and a copy given to and discussed with the employee.

13.2(2) Performance evaluation. A performance evaluation shall be prepared for each employee at least every twelve (12) months by the supervisor. Additional evaluations may be prepared at the discretion of the supervisor. Numerical ratings on the evaluation form shall include job related comments concerning areas of strength, areas for improvement, and training/development plans. The supervisor shall discuss the evaluation with the employee and the employee shall be given the opportunity to attach written comments.

Periods of service during educational leave required by the appointing authority, or military leave, shall be considered competent (3.00). Exit performance evaluations shall be completed by the former supervisor on or before the last day before the movement of an employee to employment in another section, bureau, division or agency of state government. This evaluation shall be for the period between the previous evaluation up to the movement to the other position. A copy shall be forwarded to the new supervisor of the employee.

581—13.3(19A) Copies of records. The employee shall receive copies of each performance plan and evaluation. Copies shall be placed in the employee's agency personnel file, and originals forwarded to the director. The performance evaluation and attachments are confidential records within the meaning of Iowa Code section 22.7, subsection 11.

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CHAPTER 14
LEAVE

Effective 12-10-86

581-14.1(19A) Attendance. Appointing authorities shall establish the working schedules, regulations, and required hours of work for employees under their direction. All regulations and schedules shall be made known to the affected employees by appointing authorities. All absences of probationary and permanent employees shall be charged to one of the leave categories provided for in this chapter.

581-14.2(19A) Vacation leave.

14.2(1) A probationary or permanent employee shall earn vacation for continuous state service as follows:

- a. Two (2) unscheduled holidays to be added to the vacation allowance each year.
 - b. Two (2) weeks vacation during the first and through the fourth year of employment (80 hours plus 16 hours—3.69 hours for the first and second biweekly pay periods; 3.72 hours for the third biweekly pay period).
 - c. Three (3) weeks vacation during the fifth and through the eleventh year of employment (120 hours plus 16 hours—5.23 hours for the first and second biweekly pay periods; 5.24 hours for the third biweekly pay period).
 - d. Four (4) weeks vacation during the twelfth year and through the nineteenth year of employment (160 hours plus 16 hours—6.77 hours for the first and second biweekly pay periods; 6.76 hours for the third biweekly pay period).
 - e. Four and four-tenths (4.4) weeks vacation during the twentieth year through the twenty-fourth year of employment (176 hours plus 16 hours—7.39 hours for the first biweekly pay period; 7.38 hours for the second and third biweekly pay periods).
 - f. Five (5) weeks vacation during the twenty-fifth and all subsequent years of employment (200 hours plus 16 hours—8.31 hours for the first and second biweekly pay periods; 8.28 hours for the third biweekly pay period).
- 14.2(2) Vacation is subject to the following conditions:
- a. Vacation shall be subject to the approval of the appointing authority. The appointing authority shall approve vacation so as to maintain the efficient operation of the agency; take into consideration the vacation preferences and needs of the employee; and make every reasonable effort to provide vacation to prevent any loss of vacation accrual.
 - b. Probationary and permanent part-time employees shall accrue vacation in an amount proportionate to that which would be accrued under full-time employment.
 - c. Vacation shall not accrue during any absence without pay.
 - d. An employee who is transferred, promoted, or demoted from one state agency to another shall be credited with the vacation accrued.

EFF. 9-16-87 e. An employee who leaves state employment for any reason shall be paid, or have payment made according to law, for all accrued vacation. Payment shall be included with the employee's final paycheck and shall be based on the employee's total biweekly regular rate of pay at the time of separation. When other than base pay is to be included that other pay must have been in effect for at least three pay periods. Vacation shall not be granted after the employee's last day of work.

f. An employee may, at the appointing authority's discretion, be required to use all accrued vacation before being granted any leave without pay, except as otherwise provided in these rules. g. Vacation shall be charged on the employee's workday basis. Officially designated holidays occurring during an employee's vacation shall not be counted against the employee's accrued vacation.

h. In the event of an illness or disability while on vacation, that portion of the vacation spent under the care of a physician shall be switched retroactively to and charged against the employee's accrued sick leave upon satisfactory proof from the physician of the illness or disability and its duration.

EFF. 9-16-87 i. Vacation shall not be used in excess of the amount accrued.

j. Vacation shall be cumulative to a maximum of twice the employee's annual rate of accrual, including sick leave conversion. An appointing authority may require an employee to take vacation whenever it would be in the best interests of the agency. The employee shall be given reasonable notice of the appointing authority's decision to require the use of accrued vacation. However, an employee shall not be required to reduce accrued vacation to less than 80 hours. *k.* One week of vacation shall be equal to the number of hours in the employee's normal, regular workweek.

l. Any employee who is laid off, and subsequently returns to state employment within two years following the date of separation, shall have previous continuous service and the period of separation counted toward the vacation accrual rate.

m. An employee who was terminated due to a long-term disability or a job-related illness or injury and applies for recall under subrule 14.3(6), and subsequently returns to state employment within two years following the date of medical release, shall have previous continuous service and the period of time from the date of medical release counted toward the vacation accrual rate.

n. Time spent in military service, within the specified time limits of the military training and service Act, shall be considered continuous service for the purpose of computing vacation accrual, provided the employee returns to state service within 90 calendar days following discharge from military duty. Vacation shall not accrue to an employee while on military leave without pay.

581—14.3(19A) Sick leave with pay. Probationary and permanent employees shall accrue sick leave at the rate of one and one-half days (5.54 hours for the first and second biweekly pay periods, and 5.52 hours for the third biweekly pay period) for each complete month of full-time employment. The use of sick leave with pay shall be subject to the following conditions:

14.3(1) Accrued sick leave may be used during a period when an employee is unable to work because of medically related disabilities; for physical or mental illness; medical, dental or optical examination, surgery or treatment; or when performance of assigned duties would jeopardize the employee's health or recovery. Medically related disabilities caused by pregnancy or recovery from childbirth shall be covered by sick leave.

14.3(2) Sick leave shall not be used as vacation.

14.3(3) Sick leave shall not be granted in excess of the amount accrued.

14.3(4) There is no limit on the accumulation of sick leave. An employee who has accrued at least 240 hours of sick leave may elect to accrue additional vacation in lieu of the normal sick leave accrual. The conversion shall be on the basis of one hour of vacation for three hours of sick leave, for each full month when sick leave is not used during that month. A conversion shall not be made if the accrued sick leave is less than 240 hours in the pay period in which the conversion is made. The conversion of sick leave shall be prorated for employees who are normally scheduled to work less than full-time (40 hours per week). An employee's maximum vacation accrual may be increased under this subrule up to 96 hours.

14.3(5) In all cases when an employee has been absent on sick leave, the employee shall immediately upon return to work submit a statement that the absence was due to illness or other reasons stated in this rule. Where absence exceeds three working days, the reasons for the absence shall be verified by a physician or other authorized practitioner if required by the appointing authority. An appointing authority may require verification for lesser periods of absence and at any time during an absence. In all cases, sick leave shall not be deducted from that accrued until authorized by the appointing authority.

14.3(6) Sick leave shall be charged on the employee's workday basis. Officially designated holidays occurring during an employee's sick leave shall not be counted against the employee's accrued sick leave.

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by the appointing authority. An appointing authority may require verification for lesser periods of absence and at any time during an absence. In all cases, sick leave shall not be deducted from that accrued until authorized by the appointing authority.

14.3(6) Sick leave shall be charged on the employee's workday basis. Officially designated holidays occurring during an employee's sick leave shall not be counted against the employee's accrued sick leave.

14.3(7) Sick leave shall not accrue during any absence without pay.

14.3(8) Probationary and permanent part-time employees shall accrue sick leave in an amount proportionate to that which would be accrued under full-time employment.

14.3(9) An employee who is transferred, promoted, or demoted from one agency to another shall be credited with the sick leave accrued.

14.3(10) All accrued sick leave shall expire on the date of separation and no employee shall be reimbursed for accrued sick leave unused at the time of separation except as provided for in Iowa Code section 79.1. However, if an employee is laid off and is reemployed by any state agency within one year following the date of layoff, or if an employee who was terminated due to an on-the-job injury or illness and is reemployed by any state agency within one year following the date of medical release, the employee's unused accrued sick leave shall be restored.

14.3(11) Employees may also use accrued sick leave, not to exceed a total of 40 hours per fiscal year, for the following purposes:

a. When a death occurs in the immediate family;

b. For the temporary care of, or necessary attention to members of the immediate family. This leave shall be granted at the convenience of the employee whenever possible and consistent with the staffing needs of the appointing authority.

14.3(12) If an absence because of illness, injury or other proper reason for using sick leave provided for in this rule extends beyond the employee's accrued sick leave, the appointing authority may require or permit additional time off to be charged to any other accrued leave except that employees shall, upon request, be paid accrued vacation and compensatory leave in a lump sum to prevent delay of long-term disability benefits. When all accrued sick leave has been used, the employee may be granted leave without pay or terminated except as provided in subrule 14.5(4). Leave without pay for temporary disabilities for medically related reasons shall be in accordance with rule 581—14.5(19A), prior to termination.

581—14.4(19A) Family leave. An employee who has worked at least 1,250 hours during the previous fiscal year shall be eligible for family and medical leave, subject to the following conditions:

14.4(1) No more than 12 weeks (480 hours) of family and medical leave shall be granted to an employee in any fiscal year, except that double spouse employees shall be limited to a combined total of 12 weeks for leave taken in accordance with paragraph "a," "c," or "d" below. The hourly equivalent for part-time employees shall be prorated based upon the average number of hours worked during the previous six months.

a. The birth, adoption or foster placement of a son or daughter (biological child, adopted child, foster child, stepchild, legal ward or a child to whom the employee stands in loco parentis) under 18 years of age, or older if incapable of self-care because of a mental or physical disability, provided the leave is taken within 12 months following any such birth, adoption or foster placement;

b. The care of a son or daughter under 18 years of age, or older if incapable of self-care because of a mental or physical disability, or spouse with a serious health condition;

c. The care of a parent or person who stood in loco parentis to the employee, with a serious health condition;

d. A serious health condition that renders an employee unable to perform the functions of the employee's position.

Eff. 8/5/93

Eff. 7/1/88

Eff. 3/29/91

Eff. 5/19/93

14.5(1) Leave without pay shall not originally be granted for more than 12 consecutive months. Accrued leave need not be exhausted before leave without pay is granted except that

581-14.5(19A) Leave without pay. A permanent or probationary employee, on written request and written approval by the appointing authority, may be granted leave without pay for any reason deemed satisfactory to the appointing authority, subject to the following conditions:

b. The employee's pay increase eligibility date shall be adjusted for absences of more than 30 calendar days.

a. If a reduction in force occurs while the employee is on leave, the employee's right to a position shall be established in accordance with 581-Chapter 11.

14.4(8) The appointing authority shall require written certification from the health care provider that the employee is able to resume work before allowing an employee with a serious health condition to return from family leave. Upon return from family leave, the employee shall be placed in a position in the same class held prior to the leave, or a class in the same pay grade for which the employee qualifies, with the same pay, benefits, terms and conditions of employment, except that:

14.4(7) If an employee does not return from leave because of the continuation, recurrence or onset of a serious health condition, the appointing authority shall require written certification from the health care provider. If the reason for the employee's failure to return is not a certified serious health condition or other circumstances beyond the control of the employee, the state may recover its share of health and dental insurance premiums paid during the period of leave.

14.4(6) During the period of leave, the appointing authority shall pay the state's share of the employee's health and dental insurance premiums. Failure by the employee to pay the employee's share of the premiums will result in a loss of coverage.

14.4(5) When the leave involves a serious health condition, the appointing authority may, at the agency's own expense, require a second opinion. However, the health care provider chosen for the second opinion cannot be employed in any capacity by the appointing authority. If the second opinion differs from the first, the appointing authority may, at the agency's own expense, require a third opinion from a health care provider agreeable to both the employee and the appointing authority. The third opinion shall be final and binding on both parties.

14.4(4) An employee shall submit a written request to the appointing authority within 30 days, or as soon as is practicable, prior to the date the leave is to begin. When the leave involves a serious health condition, the appointing authority shall require written certification from a health care provider. Certification shall include the following:

a. Diagnosis of the condition and the date it commenced;

b. Probable duration of the condition;

c. Prognosis and other relevant medical facts;

d. If for care of a son or daughter, spouse or parent, a statement that the employee is needed for care-giving and an estimate of the time required;

e. If for the employee, a statement that the employee is incapable of performing the functions of the position.

14.4(3) Use of sick leave shall be in accordance with rule 14.3(19A). When family leave is taken pursuant to paragraphs "a," "b," and "c" of subrule 14.4(1), an employee must exhaust all paid vacation and compensatory leave before unpaid leave is granted.

14.4(2) The use of intermittent leave for circumstances described in paragraphs "a," "b," and "c" of subrule 14.4(1) shall be at the discretion of the appointing authority. Use of intermittent leave for the circumstance described in paragraph "d" of subrule 14.4(1) shall be at the discretion of the employee based upon medical necessity.

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acquired sick leave must be exhausted if the reason for leave without pay is due to a medically related disability. The determination to require the exhaustion of any or all accrued leave shall rest with the appointing authority except as provided in subrule 14.5(4). On written request, prior to the expiration of a granted leave, the appointing authority may, in writing, grant an extension of the leave without pay. The approved leave without pay extension may not be for more than an additional 12 consecutive months, unless otherwise approved by the director. 14.5(2) Failure by the employee to report back to work on the date specified in the written request shall be considered a voluntary resignation unless otherwise approved by the appointing authority. A written statement accepting the resignation shall be sent to the employee by the appointing authority and a copy sent to the director.

Eff. 7/1/88

14.5(3) Employees who do not supplement workers' compensation with sick leave, vacation or compensatory leave, and who are kept on the payroll in a nonpay status for more than 30 calendar days, shall be placed on leave without pay for purposes of probationary periods, pay increase eligibility, and other benefits. A written statement to this effect shall be sent to the employee within three days following the action by the appointing authority. 14.5(4) When requested in writing and verified by the employee's physician or other licensed practitioner, an employee shall be granted leave, either paid, unpaid or a combination of the two at the discretion of the employee, for at least an eight-week period when the purpose is to provide recovery from a medically related disability except that leave without pay shall not be granted unless accrued sick leave has been exhausted. The appointing authority may grant leave in excess of the eight-week period. Paid leave shall not be granted in excess of that accrued. At any time during the period of leave the appointing authority may require that the employee submit written verification of continuing disability from the employee's physician or other licensed practitioner. In addition to the reason listed, subrule 14.5(2) shall also apply under the following circumstances:

Eff. 12/21/88

a. The employee fails or refuses to supply the requested verification of continued disability. b. The verification does not clearly show sufficient continuing reason that would prevent the performance of the employee's regular work duties. c. The employee is shown to be performing work which is incompatible with the purpose for which the leave without pay was granted.

Eff. 9/1/89

581-14.6(19A) Rights upon return from leave.

14.6(1) An employee who is on approved leave without pay, Olympic leave, educational leave or leave without pay for military service must notify the agency or institution from which on leave of the intent to exercise return from leave rights. Upon return from leave the employee shall have the right to return to a vacant position in the class held prior to the leave or to a class in the same pay grade for which the employee qualifies. If a vacant position is available, the reduction in force provisions of 581—Chapter 11 shall apply. The appointing authority must approve if an employee on leave without pay, Olympic leave, or educational leave requests to return to work sooner than the original approved leave expiration date. Employees on leave without pay for more than 30 calendar days, except for military leave, or educational leave required by the appointing authority, shall have their pay increase eligibility date adjusted to a later date which reflects the period of leave without pay. 14.6(2) An employee who elects to separate from employment for purposes of induction into military service shall have the right to return to a vacant position in the class held prior to separation or to a class in the same pay grade for which the employee qualifies. If a vacant position is not available, the reduction in force provisions of 581—Chapter 11 shall apply. Upon return, the employee's pay increase eligibility date and unused sick leave at the time of separation shall be restored.

581-14.7(19A) Compensatory leave. Compensatory leave accrued in accordance with subrule 4.6(3) shall be granted at the convenience of the employee whenever possible. Accrued compensatory leave may, at the discretion of the appointing authority, be required to be used provided the employee is notified five working days prior to the required usage.

581-14.8(19A) Holiday leave. Holidays shall be granted in accordance with statutory provisions to employees who are eligible to accrue vacation and sick leave.

14.8(1) The value of a holiday for full-time employees shall be eight hours or the number of hours the employee is scheduled to work on that day, whichever is greater. The value of a holiday that falls on a full-time employee's scheduled day off shall be eight hours. Employees who are normally scheduled to work full-time shall not have their holiday compensation prorated for time on leave without pay during the pay period if the employee meets the conditions of subrule 14.8(3). Compensation for holidays shall be prorated for employees who are normally scheduled to work less than 80 hours in a pay period. Compensation shall be based on the number of hours in pay status during the pay period in which the holiday falls plus the hours that would normally be scheduled for the holiday which shall be included when determining the number of pro rata holiday hours. Leave accrued under Iowa Code section 33.2(10) as vacation shall be based on the employee's hours in pay status.

Compensation for holidays under this rule shall be either in pay or compensatory leave. The decision to pay or grant compensatory leave shall be made by the appointing authority. 14.8(2) For employees who work Monday through Friday, a holiday falling on Sunday shall be observed on the following Monday and a holiday falling on Saturday shall be observed on the preceding Friday. For all other employees, the designated holiday shall be observed on the day it occurs. 14.8(3) To be eligible for holiday compensation an employee must be in pay status the last scheduled workday before and the first scheduled workday after the holiday.

An employee who separates from employment and whose last day in pay status precedes a holiday shall not be eligible for payment for that holiday. 14.8(4) When the holiday falls on an overtime-covered employee's scheduled workday, and the employee does not get the day off, the employee shall be compensated for the holiday in accordance with subrule 14.8(1) in addition to a premium rate for time worked. The premium rate shall be paid for hours worked during the 24-hour period from 12 a.m. through 11:59 p.m. on the holiday. However, hours compensated at the premium rate shall not be counted as part of the 40 hours when calculating overtime pay. When the holiday falls on an overtime-covered employee's day off, the employee shall be compensated for the holiday to a maximum of eight hours. 14.8(5) When an overtime exempt employee is required to work on a holiday, the employee may be compensated for the time worked in addition to regular holiday pay at the discretion of the appointing authority. When granted, compensation shall be at the employee's regular rate of pay for all hours worked.

581-14.9(19A) Military leave. 14.9(1) A probationary or permanent employee who is a member of the national guard, organized reserve, or any component part of the military of the state of Iowa or the United States shall, when ordered by proper authority to active or inactive state or federal military service, be granted leave, including a reasonable amount of time for commuting, for the period of active or inactive state or federal military service without loss of pay during the first 30 workdays of leave. Thereafter, absences required for military service shall be in accordance with the rules on vacation, compensatory leave, or leave without pay. Military leave may be

Eff. 9/1/89
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Eff. 11/24/89

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Eff. 9/16/87

utilized for up to 30 workdays in any calendar year. Any amount of military leave taken during any part of an employee's scheduled workday, regardless of the number of hours actually taken, shall count as one day toward the 30 paid workday maximum. Work schedule changes shall not be made for the purpose of avoiding payment for military leave.

14.9(2) A probationary or permanent employee who is inducted into military service may elect to be placed on leave without pay or be separated and removed from the payroll. The maximum period of time an employee can be on leave without pay or be separated from employment and still have return rights is five years.

a. Employees who elect to separate from employment for induction into military service shall be given 30 workdays of regular pay in a lump sum with their last paycheck. Any previous paid leave days granted for military service in the current calendar year shall be deducted from this 30 days.

b. Employees who elect to be placed on leave without pay when inducted into military service shall continue to receive regular pay and benefits for the first 30 workdays of leave. Any previous paid leave days granted for military service in the current calendar year shall be deducted from this 30 days.

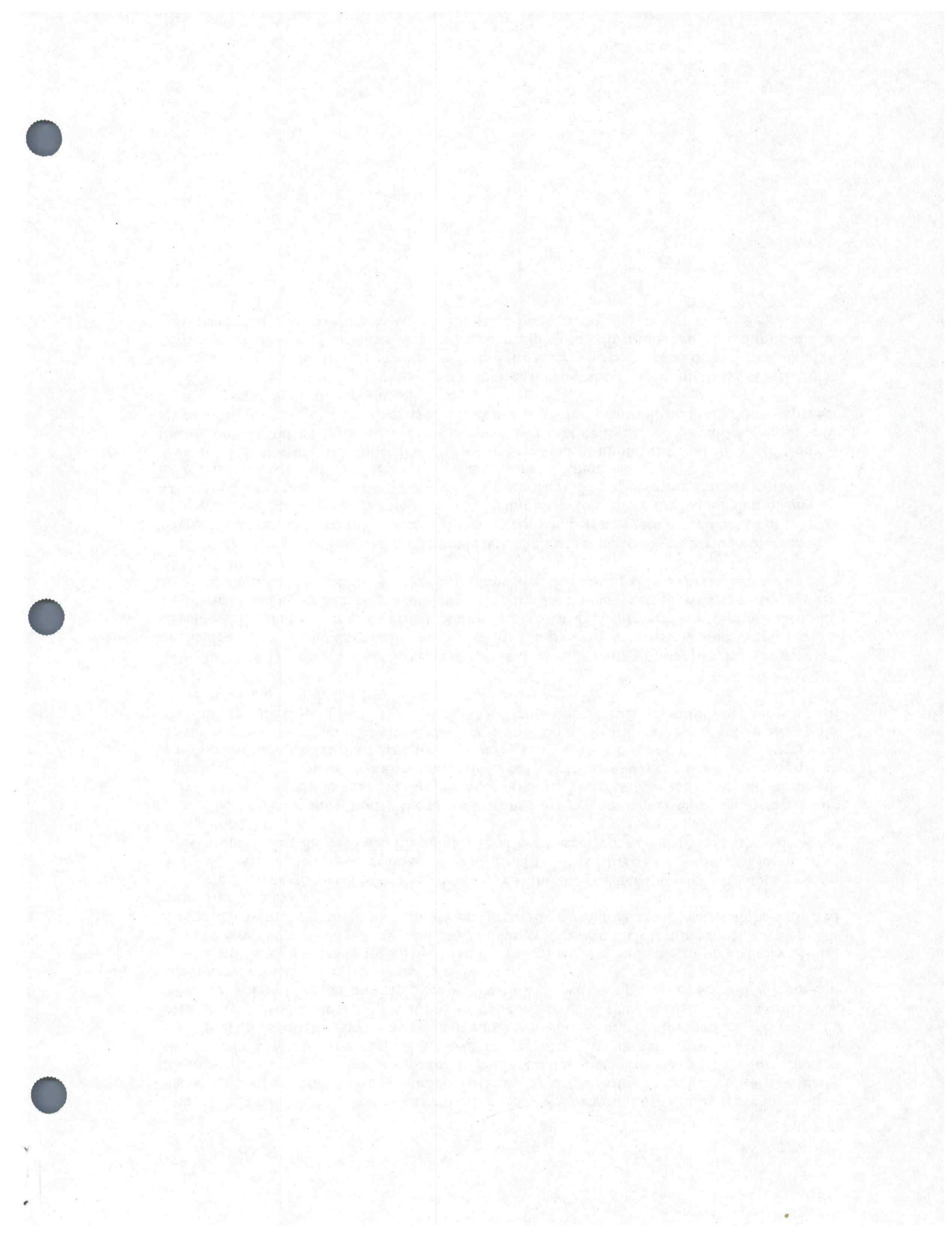
c. The employee must notify the agency or institution from which separated or placed on leave without pay of the intent to exercise return rights. The employee must provide this notification within 90 calendar days after honorable discharge from military service or from hospitalization continuing after discharge for a period of not more than one year. Employees who do not return to work or notify the agency or institution of their intent to return to work within the time specified shall forfeit return rights. Rights upon return from military service shall be in accordance with the provisions of rule 581—14.6(19A).

581—14.10(19A) Educational leave. Educational leave, with or without pay, may be granted at the discretion of the appointing authority for the purpose of assisting state employees to develop skills that will improve their ability to perform their present job responsibilities or to provide training and developmental opportunities for employees that will enable the agency to better meet staffing needs. Education financial assistance shall be in accordance with rule 581—15.10(19A).

14.10(1) Length of leave. Educational leave shall be requested for a period not to exceed twelve (12) consecutive months. Accrued vacation or compensatory leave need not be exhausted before educational leave is granted. The determination to require the exhaustion of any or all accrued leave shall rest with the appointing authority. The appointing authority may grant an extension of the original leave for an additional 12 months.

14.10(2) Selection of applicants. While the selection of applicants is at the discretion of the appointing authority, it is the express policy of the state to offer all qualified employees an equal opportunity to be considered for educational leave within the limitations imposed by agency staffing requirements.

14.10(3) Educational institutions. An employee on educational leave may take course work at any accredited educational institution within the state. Attendance at out-of-state institutions may be approved provided there are geographical or educational considerations which make attendance at institutions within the state impractical.



Eff. 9/16/87

14.10(4) Notification. The appointing authority shall notify the legislative council and the director of all educational leaves within 15 days following the granting of the leave in a manner prescribed by the director. If the appointing authority fails to notify the legislative council and the director, the expenditure of funds for the educational leave shall not be allowed. **14.10(5)** Agency report. The appointing authority shall report to the director and the legislative council, not later than October 1 of each year, the direct and indirect costs to the agency of educational leave granted to employees during the preceding fiscal year in a manner prescribed by the director.

Eff. 10/26/88

581—14.11(19A) Election leave. An employee who is not covered by the federal Hatch Act and who becomes a candidate for paid, partisan elective office shall, upon the employee's request, be granted leave 30 calendar days before a contested primary, special, or general election. The employee may choose to use accrued vacation or compensatory leave, or leave without pay to cover these periods. An employee who is elected to a paid, partisan office or appointed to an elective paid, partisan office shall, upon written request to the appointing authority, be granted leave to serve in that office, except where prohibited by federal law. The use of accrued vacation or compensatory leave, or leave without pay to cover this period shall be at the discretion of the employee. The leave provided for in this rule need not exceed six years. An employee shall not be prohibited from returning to employment before the expiration of the period for which the leave was granted.

Eff. 12/21/88

581—14.12(19A) Court appearances and jury duty. When in obedience to a subpoena, summons, or direction by proper authority, an employee appears as a witness or a jury member in any public or private litigation in which the employee is not a party to the proceedings, the employee shall be entitled to time off during regularly scheduled work hours with regular compensation, provided the employee gives to the appointing authority any payments received for court appearance or jury service, other than reimbursement for necessary travel or personal expenses. If the employee is directed to appear as a witness by the appointing authority, all time spent shall be considered to be worktime. **14.12(1)** Hours spent on court or jury leave by an employee outside the employee's scheduled work hours are not subject to this rule, nor shall any payments received for court appearance or jury service be remitted to the appointing authority. **14.12(2)** The employee shall notify the appointing authority immediately upon receipt of a subpoena, summons, or direction by proper authority to appear. **14.12(3)** An employee may be required to report to work if there will be at least two hours in the workday, following necessary travel time, during which the employee is not needed for jury service or as a witness. **14.12(4)** Upon return to work, the employee shall present evidence to the appointing authority of any payments received for court appearance or jury service.

Eff. 3/30/90

581—14.13(19A) Voting leave. An employee who is eligible to vote in a public election in the state of Iowa may request time off from work with regular pay for a period not to exceed three hours for the purpose of voting. Leave shall be granted only to the extent that the employee's work hours do not allow a period of three consecutive hours outside the employee's scheduled work hours during which the voting polls are open. A request for voting leave must be made to the appointing authority on or before the employee's last scheduled shift prior to election day. The time to be taken off shall be designated by the appointing authority.

Eff. 5/26/89

581—14.14(19A) Olympic competition leave. An employee shall be granted leave to participate in Olympic competition sanctioned by the United States Olympic Committee. The employee shall present to the appointing authority proper documentation, a statement of intent to participate and the specific leave periods involved.

Leave shall be granted only for a reasonable time necessary to travel to and from the site of the competition, a reasonable period of pretraining time at the competition site, and the time actually required to participate in the competition. The maximum Olympic leave granted per fiscal year shall not exceed ninety (90) workdays.

Employees shall receive their regular rate of pay during Olympic leave, not to exceed the amount of pay they would receive for a normal scheduled workweek. Overtime is not authorized, nor shall pay be authorized for any days spent in travel, in pretraining or in Olympic competition for which the employee would not ordinarily be compensated if at work.

Employees shall retain their regular employment benefits, including accrual of sick leave, vacation, insurance entitlements, and pay increase eligibility throughout approved Olympic competition leave.

Eff. 11/24/89

581-14.15(19A) Severe weather leave.

14.15(1) When the employer closes a state facility due to severe weather emergencies, employees may elect to use earned compensatory leave, vacation, or leave without pay to cover the absence. Employees may, with the approval of their appointing authority, also elect to work their scheduled hours even though the state facility is closed to the general public. Employees may be permitted to make up lost time within the same workweek with the approval of their supervisor.

14.15(2) If the proper management authority declares that a severe weather situation exists, but the facility is not closed, the following shall apply:

- a. If the employee reports within one-half hour following the scheduled reporting time, the employee will be assumed to have reported on time.
- b. If the employee reports later than one-half hour following the scheduled reporting time, the employee shall be credited with having worked the first one-half hour of the day plus all hours actually worked. Employees may elect to charge any additional lost time to accrued compensatory or vacation leave or leave without pay.
- c. If unable to report to work, the employee may elect to use earned compensatory or vacation leave or leave without pay.

581-14.16(19A) Particular contracts governing. Where provisions of collective bargaining agreements differ from the provisions of this chapter, the provisions of the collective bargaining agreements shall prevail for the employees covered by those agreements.

Eff. 4/13/88

581-14.17(19A) Examination and interviewing leave.

14.17(1) Employees may be granted leave to take examinations for positions covered by merit system provisions. Employees may elect to use vacation leave, compensatory leave, or leave without pay at the discretion of the appointing authority.

14.17(2) Employees may be granted the use of paid work time to attend interviews during scheduled work hours for jobs within their agency. For agencies that have statewide operations, the appointing authority may restrict the use of paid time to interviews within the central office, institution, county, or district office. A reasonable time limit for interviews may be designated by the appointing authority. Employees may be granted leave for interviews outside the agency, central office, institution, county, or district office in which case they may elect to use vacation leave, compensatory leave, or leave without pay at the discretion of the appointing authority.

14.17(3) Employees shall not be granted vacation leave or compensatory leave for taking examinations or attending interviews outside their scheduled work hours.

14.17(4) The use of state vehicles, mileage reimbursement, or per diem shall not be authorized for employees taking examinations or for attending interviews.

14.17(5) Appointing authorities shall post and make known to employees the provisions of this rule.

581—14.18(19A) Service on committees, boards, and commissions. State employees who are appointed to serve on committees, boards, commissions, or similar appointments for Iowa state government shall be entitled to regular compensation for such service. Employees shall be paid in accordance with these rules for time spent.

Pursuant to Iowa Code section 79.1, employees shall not be entitled to additional compensation for such service.

Employees shall have actual and necessary expenses paid.

Employees shall notify the appointing authority at the time of the appointment.

EFF. 5/26/89

581-15.1(19A) Health insurance. The director is authorized by the executive council of Iowa to administer health insurance programs for employees of the state of Iowa, except for employees of the board of regents.

15.1(1) An insurance carrier or other entity proposing to provide a group health insurance plan or a prepaid group health care plan to state employees shall, as an entity or in terms of the plan proposed, be eligible to contract with the executive council of Iowa as provided in Iowa Code section 509A.6, and shall provide the following to the department not later than March 1 preceding the plan year for which services are proposed:

a. Their proposed solicitation brochures, membership literature, and master contracts. Content of these materials in terms of clarity of benefit, service, and plan funding descriptions shall require approval by the department.

b. Their proposed premium rates, administrative service charges, and reserve interest rates.

15.1(2) Reserved.

15.1(3) Health maintenance organizations.

a. Definitions. The following definitions shall apply when used in this rule:

"Employee" means any employee of the state of Iowa covered by Iowa Code chapter 509A, except employees of the board of regents.

"HMO" means any health maintenance organization as defined in Iowa Code section 514B.1(3).

"Operational" means having entered into health care service contracts with enrollees and providers and providing services in accordance with those contracts.

b. Minimum qualifications. The intent of this subrule is to provide state employees with the opportunity to be covered by health care benefit programs which may differ from standard fee-for-service group health insurance programs. The executive council of Iowa may contract to provide health care benefits to state employees with any HMO which provides evidence to the department that the HMO:

(1) Has met the requirements for a mandated offering in accordance with subpart "H" of subchapter "J," health care delivery systems, Title 42 Code of Federal Regulations, (Federal Register page 72517 dated October 31, 1980, as amended on Federal Register page 19341 dated May 5, 1982, and Federal Register page 6176 dated February 14 1985); or

(2) Has been determined to be a qualified HMO in the state of Iowa in accordance with section 1310(d) of Public Health Service Act, 42 U.S.C. 300e-330e-17 by the Secretary of the U.S. Department of Health and Human Services; or

(3) Has been licensed to do business in the state by the insurance division of the Iowa department of commerce.

(4) If the requirement specified in this subrule, paragraph "b," subpart (2) or (3), has been met, the HMO shall also be required to provide the following to the department not later than March 1 preceding the plan year for which services are proposed:

1. Evidence that the HMO has been operational for not less than one year unless the requirement is waived by the executive council of Iowa.

2. Evidence that the HMO offers, either itself or by contract, to Medicare recipients, a benefit plan which supplements but which does not duplicate Medicare benefits.

3. Evidence that the HMO has filed with the insurance division of the Iowa department of commerce its most recent quarterly and annual reports in compliance with Iowa Code section 514B.12 and Iowa Administrative Code 191-40.12(514B).

4. The dates of its most recent examinations by the insurance division of the Iowa department of commerce and by the Iowa department of public health as required in Iowa Code section 514B.24, an accounting of any discrepancies discovered in the examinations and an indication of the extent to which the discrepancies have been corrected.

Eff. 11/24/89

Eff. 4/13/88

Eff. 11/24/89

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 BENEFITS
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5. Their proposed solicitation brochures, membership literature, master contracts, and the information specified in section 110.803(c)(2) through (8), subpart "H" of subchapter "J," health care delivery systems, Title 42, Code of Federal Regulations (Federal Register page 72517 dated October 31, 1980, as amended on Federal Register page 6176 dated February 14, 1985) except that the information required in section 110.803(c)(4) need not include indication of physician acceptance of new patients from the HMO membership. Content of the solicitation brochures, membership literature, and master contracts in terms of clarity of benefit, service, and plan funding descriptions shall require approval by the department. Master contracts shall include provisions requiring delivery of written termination notice by either party to the contract to the other party not less than 60 calendar days prior to contract termination.

6. Their proposed premium rates.

c. *Compliance.* Each HMO shall be governed by the following provisions:

(1) Furnish to the director annual utilization reports in accordance with the director's specifications.

(2) If an HMO has met the qualifications specified in subrule 15.1(3), paragraph "b," sub-paragraph (1), failure to comply with the requirement specified in subrule 15.1(3), paragraph "c," sub-paragraph (1), shall not result in the removal of the HMO from the state benefit plan. d. *Premiums.* The executive council of Iowa shall determine the amount of the state's contribution toward each individual noncontract employee's premium cost and shall authorize the remaining premium cost to be deducted from the employee's pay. Payments to the HMO shall be made monthly in accordance with established procedures.

Eff. 11/24/89

581—15.2(19A) *Dental insurance.* The director is authorized by the executive council of Iowa to administer dental insurance programs for employees of the state of Iowa, except for employees of the board of regents. An insurance carrier or other entity proposing to provide a group dental insurance plan or a prepaid group dental care plan to state employees shall, as an entity or in terms of the plan proposed to contract with the executive council of Iowa as provided in Iowa Code section 509A.6, and shall provide the following to the department not later than March 1 preceding the plan year for which services are proposed:

15.2(1) Their proposed solicitation brochures, membership literature, and master contracts. Content of these materials in terms of clarity of benefit, service, and plan funding descriptions shall require approval by the department.

15.2(2) Their proposed premium rates, administrative service charges, and reserve interest rates.

Eff. 11/24/89

581—15.3(19A) *Life insurance.* The director is authorized by the executive council of Iowa to administer life insurance programs for employees of the state of Iowa, except for employees of the board of regents.

An insurance carrier or other entity proposing to provide a group life insurance plan to state employees shall, as an entity or in terms of the plan proposed, be eligible to contract with the executive council of Iowa as provided in Iowa Code section 509A.6, and shall provide the following to the department not later than March 1 preceding the plan year for which services are proposed:

15.3(1) Their proposed solicitation brochures, membership literature, and master contracts. Content of these materials in terms of clarity of benefit, service, and plan funding descriptions shall require approval by the department.

15.3(2) Their proposed premium rates, administrative service charges, and reserve interest rates.

Eff. 11/24/89

581—15.4(19A) *Long-term disability insurance.* The director is authorized by the executive council of Iowa to administer long-term disability insurance programs for employees of the state of Iowa, except for employees of the board of regents.

An insurance carrier or other entity proposing to provide group long-term disability benefits, administrative services, or insurance services to state employees shall, as an entity or in terms

of the plan proposed, be eligible to contract with the executive council of Iowa as provided in Iowa Code section 509A.6, and shall provide the following to the department not later than March 1 preceding the plan year for which services are proposed:

15.4(1) Their proposed solicitation brochures, membership literature, and master contracts. Content of these materials in terms of clarity of benefit, service, and plan funding description shall require approval by the department.
15.4(2) Their proposed premium rates if an insurance plan, proposed plan funding rates if a benefits administration plan, proposed administrative service charges, and proposed reserve interest rates.

15.4(3) Employees who receive benefits under the state workers' compensation program shall have those benefits, except for benefits designated as medical costs pursuant to Iowa Code section 85.27 and that portion of benefits paid as attorneys' fees approved pursuant to Iowa Code section 86.39, deducted from any state long-term disability benefits received where the workers' compensation injury or illness was a substantial contributing factor to the award of long-term disability benefits.
15.5 Reserved.

581—15.6(19A) Deferred compensation.
15.6(1) Administration. The director is authorized by the executive council of Iowa to administer the deferred compensation program for employees of the state of Iowa.
15.6(2) Definitions. The following definitions shall apply when used in this rule:

"Agreement" means the deferred compensation agreement signed by the employer and the participating employee.
"Company" means any life insurance company which issues a policy under the deferred compensation plan authorized under Iowa Code section 509A.12.
"Employee" means a nontemporary employee of the state of Iowa, including full-time elected officials and members of the general assembly, except employees of the board of regents. For the purposes of enrollment, elected officials-elect and members-elect of the general assembly are considered employees.
"Employer" means the state of Iowa.
"Normal retirement age" means 70½ years of age.

"Participating employee" means an employee participating in the plan.
"Plan" means the deferred compensation plan authorized in Iowa Code section 509A.12.
"Plan administrator" means the designee of the director who is authorized to administer the deferred compensation plan.
"Plan year" means on a calendar-year basis.
"Policy" means any retirement annuity, insurance policy or variable annuity, or combination provided for in the agreement.

15.6(3) Eligibility.
a. Initial eligibility. Any nontemporary employee who regularly works twenty (20) or more hours per week or who has a fixed annual salary is eligible to defer compensation under the agreement. This includes full-time elected officials and members of the general assembly. Final determination on eligibility shall be made by the plan administrator. A member or member-elect of the general assembly is eligible provided deductions meet the requirements of subrule 15.6(6) paragraph "c."

b. Eligibility after termination of the program. Any participating employee who terminates the deferral of compensation may re-enter the plan during the next open enrollment period with deductions to start with a pay warrant received during the second month following the open enrollment.

Eff. 4/13/88

Eff. 9/16/87

Eff. 9/16/87

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Eff. 1/17/92

15.6(4) *Enrollment and termination.*

a. Open enrollment. Open enrollment periods, as designated by the director, shall be held for employees who wish to participate in the plan. The company application form shall be received by the plan administrator during the open enrollment periods. All completed forms, including a copy of the approved application form, shall be received by the plan administrator within 5 calendar days following the first day of the pay period in which the first deduction is to be made. Any forms received after that date will not be processed but may be resubmitted during the next open enrollment period. The policies shall become effective on the first day of the third month following an open enrollment period. The premiums shall be deducted from the pay warrants received by the participating employees beginning with the second month following an open enrollment period. Enrollment is permitted for elected officials-elect and members-elect of the general assembly during an open enrollment period as if they were otherwise eligible to enroll as employees.

b. Enrollment upon hire. For new employees who wish to enroll in the plan, the company application form shall be received by the plan administrator within 30 calendar days following the date of hire with the state of Iowa. All completed forms, including a copy of the approved application form, shall be received by the plan administrator within 5 calendar days following the first day of the pay period in which the first deduction is to be made. Any forms received after that date will not be processed, but may be resubmitted during the next open enrollment period if the employee wishes to participate in the plan. The initial deduction will be made during the first pay period of the second month following the completion of 30 calendar days of employment. The policy shall be effective the first of the month following the initial month of payroll deductions.

c. Termination of participation in the plan. A participating employee may terminate participation in the plan by giving written notice on the designated form to the agency of employment. Except in the case of death of the participating employee, the termination shall not become effective until a full month's premium has been deducted from the employee's compensation. Termination of plan participation does not provide for the disposition of funds unless done in accordance with subrule 15.6(8).

d. Availability of forms. It is the responsibility of each employee interested in participating in the program to obtain the necessary forms from the agency of employment. It is the responsibility of each agency to inform its employees where and how they may obtain the necessary forms. The forms shall be prescribed by the plan administrator, and agencies shall be advised as to their availability.

Eff. 1/17/92

Eff. 1/17/92

a. FICA and IPERS. The amount of compensation deferred under the agreement shall be included in the gross wages subject to FICA and IPERS until the maximum taxable wages established by law have been reached.

b. Federal and state income taxes. The amount of earned compensation deferred under the agreement is exempt from federal and state income taxes until such time as the funds are paid or made available as provided in IRC section 457(1954) as amended. The six states adjoining Iowa have agreed to allow their residents who are employees of the state of Iowa to defer compensation for state income tax purposes.

15.6(5) *Tax status.*

Eff. 1/17/92

Eff. 1/17/92

a. When deducted. Each participating employee shall have the option as to whether the entire monthly amount of deferred compensation shall be deducted from the first pay warrant or the second pay warrant of the month or be equally divided between the first and second pay warrants received by the participating employee during the month. If the monthly deferred amount cannot be divided into two (2) equal payments, the third option is not available. Deferrals cannot be deducted from the third pay warrant of a month.

15.6(6) *Deductions from earnings.*

b. Change in amounts. A participating employee may increase or decrease the employee's participation in the plan as of the first day of the second month following open enrollment by giving not less than thirty (30) days' prior written notice to the plan administrator. The change request shall be submitted on the proper form and received by the plan administrator on or before five (5) days after the start of the pay period in which the first deduction is to be made.

c. Amount allowed to be deferred. Compensation may be deferred up to a maximum of twenty-five percent (25%) of the employee's monthly base salary not to exceed seven thousand five hundred dollars (\$7,500) per year. A non-temporary part-time employee's monthly base salary shall be determined by using the employee's full-time equivalency. A participating employee may elect to catch-up during the employee's last three (3) tax years before reaching normal retirement age. This catch-up, which could be in addition to the maximum amount that is allowed by the twenty-five percent (25%) or seven thousand five hundred dollars (\$7,500) provisions above, could amount to the lesser of the following: (1) seven thousand five hundred dollars (\$7,500) or (2) twenty-five percent (25%) of the employee's previous year's base salary less the amount actually deferred during that employee's previous tax year. During this catch-up period, the participating employee shall have participated for twelve (12) months during the employee's previous tax year. If the participating employee does not utilize this catch-up provision during the first of the three (3) catch-up years, the "lost" catch-up amount cannot be added to either the second or third year of this catch-up period. If the participating employee does not utilize this catch-up provision during the first two (2) years of the catch-up period, this "lost" catch-up amount cannot be added to the third year of the catch-up period. The amount to be deferred shall remain constant from one open enrollment period to the next. This cannot be changed to permit additional deferral from employees who are terminating and are collecting vacation or sick leave payouts or both.

d. Minimum amount deferred. The minimum amount of deferred compensation to be deducted from the earnings of a participating employee during any month is twenty-five dollars (\$25).

Eff. 1/17/92

15.6(7) Insurance companies.
a. Identification number. Each participating company shall be assigned an identification number by the plan administrator. Each company shall initially have a minimum of 30 applications in order to participate in the plan. After satisfying this criterion, companies with less than 30 applications may continue to participate in the plan when approved by the director.
b. Time of payment. Payments shall be transmitted by the plan administrator to the insurance companies within ten (10) calendar days after the last work day of each month.

Eff. 11/24/89

c. Annual status report. An annual status report stating the value of each participant's policy shall be provided by each company to both the participating employee and the department as of June 30 each year. This shall be continued even after a participating employee terminates or cancels participation in the program. These annual reports are required as long as a value exists in the contract or any activity occurs during the year. The report must include, in addition to a June 30 value, all contributions, earnings, and payouts for the 12-month period. Companies failing to provide this information will invoke surrender of all affected policies.
d. Method of payment. Each company shall be paid with one warrant each month regardless of the number of individual accounts with the company. Companies must minimize credit-ing errors and provide reasonable credit resolution.

Eff. 9/16/87

e. Solicitation. There shall be no solicitation of employees by insurance companies at the employee's work place during the employee's regular working hours.
f. Dividends. The only dividend options available on cash value policies are those where the dividend remains with the company to increase the value of the policy.

Eff. 1/17/92

g. Removal from participation. Failure to comply with the provisions of these rules will result in permanent removal as a participating company.
15.6(8) Disposition of funds.

Eff. 12/21/88

a. Death of employee. When a participating employee dies, the following information shall

to be provided by the next of kin to the plan administrator: participating employee's name, social security number, and a copy of the death certificate. On receipt of the above information, the plan administrator shall initiate procedures so that the proceeds of the policy may be distributed as provided in the agreement, unless an election has been made by the beneficiary to irrevocably defer benefits to no later than the deceased employee's normal retirement date.

b. Death of former employee. When a former participating employee dies, the following information shall be provided by the next of kin to the plan administrator: former employee's name, social security number, and a copy of the death certificate. On receipt of the above information, the plan administrator shall initiate procedures so that the proceeds of the policy may be distributed as provided in the agreement unless an election is made by the beneficiary to irrevocably defer benefits in accordance with the former employee's election.

EFF. 9/16/87

c. Termination of employment. An employee who has terminated state employment (including retirement) may defer or withdraw funds under any option available in the agreement and policy. The employee shall, within 30 calendar days after termination, make an irrevocable decision on a form provided by the plan administrator. If funds are not withdrawn, payment shall commence by the time the former employee reaches normal retirement age. The former employee shall indicate on a form provided by the plan administrator when and under what option funds are to be paid. If election is not made within the time required, the funds shall be withdrawn by the plan administrator and paid to the former employee. The decision of the former employee is irrevocable when filed with the plan administrator. If an employee elects to start receiving benefits at the normal retirement age, the amount withdrawn each year shall equal or exceed 67 percent of the expected return multiple as defined by the actuarial table provided by the Internal Revenue Service for one life, and be a settlement option that will begin to reduce the principal. If an employee works beyond normal retirement age, the employee shall notify the plan administrator of the selected retirement option within 30 days after termination of employment on forms provided by the agency of employment.

d. Financial hardship. A participating employee may request that the plan administrator allow the withdrawal of funds from the policy based on financial hardship. The plan administrator shall decide if the employee's request meets the definition of a financial hardship as provided for in United States Department of the Treasury—Internal Revenue Service Regulation 457-2.

e. Transfer to a new employer. Terminating employees who have accepted employment with a city or county municipality within the state of Iowa may transfer ownership of their policies to their new employer provided the policies are placed in a like plan in accordance with IRC section 457.

f. Method of payment. Payments will not be ordered by the state until at least thirty-one (31) days have elapsed after termination. For convenience in making payments under the agreement, the employer requires the insurance company, as agent for the state, to make payments directly to the former employee or to the employee's beneficiary, in satisfaction of the employer's continuing obligation. This shall not, however, give the employee or beneficiary any right to demand payment from the insurance company. It shall be the responsibility of the insurance company, when making payment directly to former employees, to withhold the required federal and state income taxes, to remit them to the proper government agency on a timely basis, and to file all necessary reports as required by federal and state regulations, including W-2s, with copies to the plan administrator.

h. Rescinded IAB 2/21/90, effective 3/30/90.

EFF. 1/17/92

15.6(9) Group insurance.

a. Availability. Iowa Code chapter 509A provides that a governing body may approve group insurance policies for employees. The governing body for state employees is the executive council of Iowa.

b. Approval of plans. All group plans must be approved by the executive council of Iowa before any group policies may be sold.

c. Size of group. One or more employees shall constitute a group under this program.

EFF. 3/30/90

a. Orientation and information meetings. Agencies may hold orientation and informational meetings for the benefit of their employees but there shall be no solicitation of employees by insurance companies allowed at these meetings. The presence of a representative of an insurance company will be interpreted as solicitation.

Eff. 9/16/87

b. Location of policies. The insurance company shall send the original policy to the plan administrator. Failure to do so may result in cancellation of further participation. All original policies shall be kept by the plan administrator at the department. Participating employees may review their own policy during normal work hours but may under no circumstances remove the policy from the department. The company shall furnish each participating employee with a copy of the policy for informational purposes only, and shall clearly mark that it is not an original policy. The employer shall hold the original policy until the proceeds are disbursed under the terms of the agreement.

Eff. 1/17/92

c. Number of companies. An employee shall be limited to participation with only one company at a time. Only life insurance companies authorized to do business in Iowa may sell policies under the plan. If a participating employee wishes to change companies, the employee shall submit forms in the same manner as a new enrollment, except that a letter must be included if funds are to be transferred to the new company. The new policy shall be effective the first of the month following the initial month of payroll deduction. The funds accumulated under the old policy may be transferred in total to the new policy with the approval of the plan administrator. An employee may change companies only once between open enrollment periods. However, the amount of the payroll deduction shall not change if the change is made other than on an open enrollment effective date. After termination of employment, former employees may change companies only once. Former employees must take a distribution from that company based on the distribution date selected by the employee at the time of separation. d. Change in beneficiary. A participating employee may change the beneficiary shown in the supplement to the compensation agreement by providing the plan administrator with written notice of the change on forms prescribed by the plan administrator. The beneficiary on the policy shall be the state of Iowa. e. Deferred compensation or tax sheltered annuity. Employees who, under the laws of the state of Iowa, are eligible for both deferred compensation and tax sheltered annuities, shall be allowed to participate in one of the two programs, but not both.

15.6(11) Forms. The administrator of the deferred compensation program shall be accomplished by the use of forms described below and used in accordance with these rules. a. Authorization to deduct. This form shall authorize the plan administrator to make a stated deduction from the participating employee's compensation as part of an I.R.S. 457 plan. b. Deferred compensation change request. This form shall authorize the plan administrator to change the amount of deduction from the participating employee's compensation. c. Request for distribution of funds. This form shall be used when a participating employee desires to have the employer surrender the policy for a cash refund or the employee wishes to start drawing retirement benefits. d. Change of beneficiary. This form shall be used when a participating employee wishes to change the beneficiary named in the supplemental agreement. e. Deferred compensation agreement. This form is the agreement between the employer and the participating employee. f. Application for policy for new participating employee. This form shall be supplied by the insurance company to which the participating employee elects to defer compensation. The completed form shall be approved by the plan administrator prior to completion of any other forms described in these rules. The completed form shall show that the owner and beneficiary of the policy is the state of Iowa and that the relationship of the state of Iowa to the participating employee is as employer. The completed form shall be forwarded to the Deferred Compensation Plan Administrator, Iowa Department of Personnel, Grimes State Office Building, Des Moines, Iowa 50319-0150, with a self-addressed, stamped envelope to be

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used to return the approved completed forms. Any form postmarked after the last day of an open enrollment period shall not be approved.

581-15.7(19A) Dependent care. The director administers the dependent care program for employees of the state of Iowa. The plan is permitted under IRC section 125. The plan is also a dependent care assistance plan under IRC section 129. Administration of the plan shall comply with all applicable federal regulations and the Summary Plan Document. For purposes of this rule, the plan year is a calendar year.

15.7(1) *Employee eligibility.* All nontemporary employees who work at least 1040 hours per calendar year are eligible to participate in the dependent care program. Temporary employees are not eligible to participate in this program.

15.7(2) *Enrollment.* An open enrollment period, as designated by the director, shall be held for employees who wish to participate in the plan. New employees may enroll within 30 calendar days following their date of hire. Employees also may enroll or change their existing dependent care deduction amounts during the plan year, provided they have a qualifying change in family status as defined in the Summary Plan Document. To continue participation, employees shall reenroll each year during the open enrollment period.

15.7(3) *Termination of participation in the plan.* An employee may terminate participation in the plan provided the employee has a qualifying change in family status as defined in the Summary Plan Document. Employees who have terminated state employment and are later rehired within the same plan year cannot reenroll in the dependent care program until the subsequent plan year.

881-15.8(19A) Premium conversion plan (pretax program). The director administers the premium conversion plan for employees of the state of Iowa. The plan is permitted under IRC section 125. Pursuant to IRC section 105, the plan is also an insured health care plan to the extent that participants use salary reduction to pay for health or dental insurance premiums. In accordance with IRC section 79, the plan is also a group-term life insurance plan to the extent that salary reduction is used for life insurance premiums. Administration of the plan shall comply with all federal regulations and the Summary Plan Document. For purposes of this rule, the plan year is August 1 to July 31 of each year.

15.8(1) *Employee eligibility.* All nontemporary employees who work at least 1040 hours per calendar year are eligible to participate in the pretax conversion plan. Temporary employees are not eligible to participate in the plan.

15.8(2) *Enrollment.* An open enrollment period, as designated by the director, shall be held for employees who wish to make changes in their current pretax status. New employees will automatically be enrolled in the plan after satisfying any waiting period requirements for group insurance unless a change form is submitted. Employees also may change their existing pretax status during the plan year if they have a qualifying change in family status as defined in the Summary Plan Document.

15.8(3) *Termination of participation in the plan.* An employee may terminate participation in the plan during an open enrollment period. Otherwise, an employee may terminate participation if the employee has a qualifying change in family status as defined in the Summary Plan Document. Employees who have terminated state employment and are later rehired within the same plan year cannot reenroll in the pretax conversion plan until the subsequent plan year.

581-15.9 Interviewing and moving expense reimbursement.

15.9(1) Interviewing expenses. If approved by the appointing authority, a person who interviews for employment shall be reimbursed for expenses incurred in the interview at the same rate at which an employee is reimbursed for expenses incurred during the performance of state business.

15.9(2) Moving expenses for transferred employees. A state employee who is transferred shall be reimbursed for allowable moving expenses and up to seven thousand five hundred dollars (\$7,500) in allowable incidental expenses in accordance with policies of the director. Eligibility for payment shall occur when all the following conditions exist:

- a. The employee is transferred at the direction of the appointing authority.
- b. The transfer constitutes a permanent change in duty station.
- c. The transfer results in the employee changing the place of residence beyond twenty-five (25) miles unless prior approval otherwise has been obtained from the director.
- d. The transfer is not primarily for the benefit of the employee.

15.9(3) Moving expenses for newly hired employees. If approved by the appointing authority, a person newly hired may be reimbursed for moving expenses incurred at the same rate provided for the transfer of a current employee. Reimbursement shall not occur until the employee is on the payroll.

581-15.10(19A) Education financial assistance may be granted for the purpose of assisting employees in developing skills that will improve their ability to perform their present job responsibilities. Assistance may be in the form of direct payment to the organization or institution, or by reimbursement to the employee as provided for in these rules.

15.10(1) Employee eligibility. Any nontemporary employee may be considered for education financial assistance.

15.10(2) Workshop, seminar, or conference attendance. The appointing authority may approve education financial assistance for an employee attending a workshop, seminar, or conference conducted by a professional, educational, or governmental organization or institution when attendance by the employee would not require a reduction in job responsibilities. Assistance may be approved for meeting continuing education requirements (CEUs) when necessary to maintain a professional registration, certification, or license related to the duties and responsibilities of the employee's position.

b. Payment of registration fees and other costs, such as lodging, meals, and travel may be made to the employee or by direct billing of the department by the organization or institution with the approval of the appointing authority.

c. If attendance is outside the state of Iowa, travel must first be authorized by the executive council, per Iowa Code section 421.38(2).

15.10(3) Educational institution coursework. Education financial assistance to an employee taking academic courses at an educational institution, with or without educational leave, shall require the approval of the appointing authority and the director. Requests for reimbursement shall be on forms prescribed by the director.

a. An employee may take academic courses at any accredited educational institution (university, college, area community college) within the state. Attendance at an out-of-state institution may be approved provided there are geographical or educational considerations which make attendance within the state impractical.

b. Reimbursement requests shall be made to the director prior to the employee taking the courses. If the director does not approve the request, the employee shall not be reimbursed.

c. Reimbursement may be approved for courses taken to meet continuing education requirements (CEUs) when necessary to maintain a professional registration, certification, or license

Eff. 9/16/87

when the courses relate to the duties and responsibilities of the employee's position.

d. An employee receiving other financial assistance such as scholarship aid or veterans' administration assistance, shall be eligible to receive education financial assistance only to the extent that the total of all methods of reimbursement does not exceed 100 percent of the payment of expenses, which are limited to tuition, fees and books.

e. In order to be reimbursed, the employee's department shall submit the employee's original paid receipt from the educational institution to the department of revenue and finance for payment of expenses, along with proof of the employee's successful completion of the courses as follows:

(1) Undergraduate courses shall require at least a "C" grade.

(2) Graduate courses shall require at least a "B" grade.

(3) Successful completion of vocational or correspondence courses or continuing education courses shall require an official certificate, diploma or notice.

15.10(4) *Annual report.* The appointing authority shall report to the director and legislative council, not later than October 1 of each year, the direct and indirect costs to the department for education financial assistance granted to employees during the preceding fiscal year in a manner prescribed by the director.

581—15.11(19A) **Particular contracts governing.** Where provisions of collective bargaining agreements differ from the provisions of this chapter, the provisions of the collective bargaining agreement shall prevail for employees covered by the collective bargaining agreements.

CHAPTER 16
POLITICAL ACTIVITY
(Effective 12/10/86)

581—16.1(19A) Political activity of employees. All employees have the right to express their opinions as individuals on political issues and candidates. Such expressions may be either verbal or demonstrative in the form of pictures, buttons, stickers, badges, pins, or posters. Employees' rights to express their opinions on political matters in this form or manner shall not be restrained while on duty unless:

- 16.1(1) It is a violation of the law; or
- 16.1(2) The display of such items would cause or constitute a real and present safety risk or would substantially and materially interfere with the efficient performance of official duties;

16.1(3) The employee has substantial contact with the public and the level of trust and confidence associated with the employee's position is perceived to be such that political

16.1(4) Rescinded IAB 2/21/90, effective 3/30/90.
expressions in any form, while on duty, might influence the public.

581—16.2(19A) Restrictions on political activity of employees. All employees are prohibited

from:

- 16.2(1) Using the influence of their positions, public property, or supplies to secure contributions or to influence an election for any political party or any person seeking political office.
- 16.2(2) Soliciting or receiving anything of value in excess of the limits in Iowa Code section 68B.5 as a political contribution or subterfuge for a contribution from any other person for any political party or any person seeking political office during scheduled working hours, while on duty, when using state equipment, or on state property.
- 16.2(3) Promising or using influence to secure public employment or other benefits financed from public funds as a reward for political activity.
- 16.2(4) Discriminating in favor of or against any employee or applicant on account of their political contributions or permitted political activities.

Employees of the alcoholic beverages division of the department of commerce, in addition to the foregoing subrules, are subject to the prohibitions set forth in Iowa Code section 123.18. All employees are further subject to the provisions of Iowa Code chapter 721.

581—16.3(19A) Application of Hatch Act. In addition to the restrictions set forth in rules 16.1(19A) and 16.2(19A), employees occupying state positions financed in whole or in part by federal "grant-in-aid" or other specific federal funding, are subject to the provisions of the federal Hatch Act. Where compliance with the political restrictions of the Hatch Act are required for the receipt of federal funds, the appointing authority shall identify those state positions so covered. The employees under those further political activity restrictions shall be made aware of the additional restrictions by posting or other written notification from the appointing authority.

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CHAPTER 17
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Effective 7/1/88

581-17.1(19A) Definitions. As used in this chapter:

"Confidential record" means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, authorization to the custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Custodian" means the director or designee. The custodian of the employee payroll record system described in subrule 17.14(2) is the director of the department of personnel or the director's designee for those parts under the jurisdiction of the department of revenue and finance and the department of the jurisdiction of the department of revenue and finance.

"Department" means the Iowa department of personnel.
"Open record" means a record other than a confidential record.
"Personally identifiable information" means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system under the jurisdiction of the department.

"Record" means all or part of a "public record" as defined in Iowa Code section 22.1 that is owned by or in the physical possession of the department.
"Record system" means any group of records under the jurisdiction of the department from which a record may be retrieved by a personal identifier such as the name of the individual, number, symbol or other unique retriever assigned to the individual.

581-17.2(19A) Statement of policy, purpose and scope. The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate department determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This chapter implements Iowa Code section 22.11 by establishing rules, policies, and procedures for the maintenance of employee, applicant, and other records in the possession of and under the jurisdiction of the department. Employee payroll records are jointly under the jurisdiction of the department of personnel and the department of revenue and finance and are governed by the rules, policies and procedures of that jurisdiction. In both instances these include but are not limited to, access to records, requests for confidential treatment of records, procedures for having additions, dissents or objections entered into records, collection, disclosure, and retention of records, notices to suppliers of information and the release of records.

581-17.3(19A) Requests for access to records.
17.3(1) Location of records. A request for access to a record under the jurisdiction of the department shall be directed to the office where the record is kept. Requests for access to records pertaining to the Iowa public employee's retirement system shall be directed to the IPERS Division at 600 East Court Avenue, Des Moines, Iowa, 50319-0154. If the location of the record is not known by the requester, the request shall be directed to the department of Personnel, East 14th Street at Grand Avenue, Des Moines, Iowa 50319-0150. The department will forward the request appropriately. If a request for access to a record is misdirected, department personnel will forward the request to the appropriate person within the department.

17.3(2) *Office hours.* Records shall be made available during all customary office hours which are from 8 a.m. to 4:30 p.m. on those days that state offices are open.

17.3(3) *Request for access.* Requests for access to open records may be in writing, by telephone or in person. Requests shall identify the particular records sought by name or other personal identifier and description in order to facilitate the location of the record. Requests shall include the name and address of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

Requests for access to record systems described in rule 581—17.14(19A) are to be submitted to the department with the following exception. Requests for access to the employee payroll record system described in subrules 17.2(1) and 17.14(2) under the joint jurisdiction of the department of personnel and the department of revenue and finance shall be submitted to either department in accordance with their respective jurisdiction.

17.3(4) *Response to requests.* The custodian of records under the jurisdiction of the department is authorized to grant or deny access to a record according to the provisions of this chapter and directions from the department. The decision to grant or deny access may be delegated to one or more designated employees.

Access to an open record shall be granted upon request. Unless the size or nature of the request requires time for compliance, the request shall be responded to as soon as feasible. However, access to an open record may be delayed for one of the purposes authorized by Iowa Code subsection 22.8(4) or 22.10(4). The custodian shall inform the requester of the reason for the delay and an estimate of the length of that delay and, upon request, shall provide a written reply.

The custodian of a record may deny access to the record by members of the public only on the grounds that a denial is warranted under Iowa Code subsection 22.8(4) or subsection 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 581—17.4(19A) and other applicable provisions of law.

17.3(5) *Security of records.* No person shall, without permission, search or remove any record from the office in which it is located. Examination and copying of records shall be done under supervision. Records shall be protected from damage and disorganization.

17.3(6) *Copying.* A reasonable number of copies may be made unless printed copies are available. If copying equipment is not available in the office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies made elsewhere subject to costs.

17.3(7) *Fees.*

a. *When charged.* The agency is authorized to charge fees in connection with the examination or copying of records in accordance with Iowa Code section 22.3. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. *Copying and postage costs.* Price schedules for regularly published records and for copies of records supplied by the agency shall be posted in the agency. Copies of records may be made by or for members of the public at cost, as determined by and posted in the agency. A charge assessed to a current employee for copies of records in the employee's own official personnel file shall not exceed five dollars per request. When the mailing of copies of records is requested, the actual costs of mailing may also be charged to the requester.

c. *Search and supervisory fee.* A fee may be charged for actual expenses in searching for, compiling, and supervising the examination and copying of requested records. The fee shall be based on the hourly rate of pay of a department employee who ordinarily would be appropriate and suitable to perform this function and shall be posted in the department. No fee shall be charged if the records are not made available for inspection. The requester shall be given advance notice if it will be necessary to charge a higher hourly rate than that set in order to find or supervise the particular records in question, and shall indicate the amount of that higher hourly rate to the requester.

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d. *Advance payments.*
(1) When the estimated fee chargeable under this subrule exceeds \$25, the requester may be required to make an advance payment of the estimated fee. Upon completion, the actual fee will be calculated and the difference refunded or collected.
(2) When a requester has previously failed to pay a fee charged under this subrule, full advance payment of future estimated fees of any amount may be required before processing a new or pending request for access to records from that requester.

581—17.4(19A) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the custodian may disclose certain confidential records to members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination or copying of a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in subrule 17.3(3).

17.4(1) Proof of identity. A person requesting access to a confidential record shall be required to provide proof of identity satisfactory to the custodian.

17.4(2) Requests. A request to review a confidential record shall be on a form provided by the department. A person requesting access to a confidential record shall be required to sign a statement enumerating the specific grounds alleged to justify access and provide any proof necessary to establish relevant facts.

17.4(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases that record, the custodian shall make reasonable efforts to notify any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. The custodian shall give the subject of that confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of that record the specified period of time during which disclosure will be delayed for that purpose.

17.4(4) Request denied. When the custodian denies a request for access to a confidential record, in whole or in part, the custodian shall notify the requester in writing. The denial shall be signed by the custodian of the record and shall include:
a. The name and title of the person responsible for the denial; and
b. A brief citation to the statute or other provision of law which prohibits disclosure of the record; or
c. A brief citation to the statute vesting discretion in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to the requester.

17.4(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

581—17.5(19A) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

17.5(1) Persons who may request. Any person who would be aggrieved or adversely affected by disclosure of all or a part of a record under the jurisdiction of the department to members of the public and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may file a request, as provided for in this rule, for its treatment as a confidential record and to withhold it from public inspection. Failure of a person to request confidential record

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treatment for all or part of a record does not preclude the department from designating it and treating it as a confidential record.

17.5(2) Request. A request for the treatment of a record as a confidential record shall

be in writing and shall be filed with the director. The request shall include an enumeration of the specific reasons justifying confidential record treatment for all or part of that record, the specific provisions of law that authorize confidential record treatment in this instance, and the name and mailing address of the person authorized to respond to any action concerning the request. The person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of the record as a confidential record and to provide any proof necessary to establish relevant facts. The person filing a request shall, if possible, accompany the request with a copy of the record in question from which those portions have been deleted for which confidential record treatment has been requested. If the original record is submitted at the same time the request is filed, the person shall indicate conspicuously on the original record which portions of it are requested to be confidential. Requests for treatment of all or portions of a record as confidential for a limited time period shall also specify the precise period of time for which confidential record treatment is requested.

17.5(3) Failure to request. Failure of a person to request confidential record treatment for a record shall not preclude the custodian from treating it as a confidential record. If a person who has submitted information does not request confidential record treatment under the provisions of Iowa Code sections 22.7(3) and 22.7(6) for all or part of that information it may be assumed that the person has no objection to its public disclosure.

17.5(4) Timing of decision. A decision by the department with respect to the disclosure of all or part of a record under its jurisdiction to members of the public may be made when a request for its treatment as a confidential record is filed or when a request is received for access to the record by a member of the public.

17.5(5) Request granted or deferred. If a request for confidential record treatment is granted, or if action on a request is deferred, a copy of the record from which the material in question has been deleted and a copy of the decision to grant the request or to defer action on the request will be placed in the file in addition to the original record, and will be made available for publication. If a request is subsequently received for access to the original record, reasonable and timely efforts will be made to notify any person who has filed a request for its treatment as a confidential record.

17.5(6) Request denied and opportunity to seek injunction. If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of the reasons for that determination. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

581—17.6(19A) Procedure by which a person who is the subject of a record may have additions, dissents, or objections entered into a record. Except as otherwise provided by law, the subject of a record may file a request with the custodian to review and to have the right to have a written statement of additions, dissents, or objections entered into a record under the jurisdiction of the department. However, this does not authorize a person who is a subject

d. Advance payments.

(1) When the estimated fee chargeable under this subrule exceeds \$25, the requester may be required to make an advance payment of the estimated fee. Upon completion, the actual fee will be calculated and the difference refunded or collected.
(2) When a requester has previously failed to pay a fee charged under this subrule, full advance payment of future estimated fees of any amount may be required before processing a new or pending request for access to records from that requester.

581—17.4(19A) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in subrule 17.3(3).

17.4(1) Proof of identity. A person requesting access to a confidential record shall be required to provide proof of identity satisfactory to the custodian.
17.4(2) Requests. A request to review a confidential record shall be on a form provided by the department. A person requesting access to a confidential record may be required to sign a certified statement or affidavit enumerating the specific grounds justifying access and to provide any proof necessary to establish relevant facts.
17.4(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specified period of time during which disclosure will be delayed for that purpose.

17.4(4) Request denied. When the custodian denies a request for access to a confidential record, in whole or in part, the custodian shall notify the requester in writing. The denial shall be signed by the custodian of the record and shall include:
a. The name and title of the person responsible for the denial; and
b. A brief citation to the statute or other provision of law which prohibits disclosure of the record; or
c. A brief citation to the statute vesting discretion in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to the requester.
17.4(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

581—17.5(19A) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.
17.5(1) Persons who may request. Any person who would be aggrieved or adversely affected by disclosure of all or a part of a record under the jurisdiction of the department or members of the public and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may file a request, as provided for in this rule, for its treatment as a confidential record and to withhold it from public inspection. Failure of a person to request confidential record

treatment for all or part of a record does not preclude the department from designating it and treating it as a confidential record.

17.5(2) Request. A request for the treatment of a record as a confidential record shall be in writing and shall be filed with the director. The request shall include an enumeration of the specific reasons justifying confidential record treatment for all or part of that record, and the name and mailing address of the person authorized to respond to any action concerning the request. The person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of the record as a confidential record and to provide any proof necessary to establish relevant facts. The person filing a request shall, if possible, accompany the request with a copy of the record in question from which those portions have been deleted for which confidential record treatment has been requested. If the original record is submitted at the same time the request is filed, the person shall indicate conspicuously on the original record which portions of it are requested to be confidential. Requests for treatment of all or portions of a record as confidential for a limited time period shall also specify the precise period of time for which confidential record treatment is requested.

17.5(3) Failure to request. Failure of a person to request confidential record treatment for a record shall not preclude the custodian from treating it as a confidential record under the provisions of Iowa Code sections 22.7(3) and 22.7(6) for all or part of that information if it may be assumed that the person has no objection to its public disclosure.

17.5(4) Timing of decision. A decision by the department with respect to the disclosure of all or part of a record under its jurisdiction to members of the public may be made when a request for its treatment as a confidential record is filed or when a request is received for access to the record by a member of the public.

17.5(5) Request granted or deferred. If a request for confidential record treatment is granted, or if action on a request is deferred, a copy of the record from which the material in question has been deleted and a copy of the decision to grant the request or to defer action on the request will be placed in the file in addition to the original record, and will be made available for publication. If a request is subsequently received for access to the original record, reasonable and timely efforts will be made to notify any person who has filed a request for its treatment as a confidential record.

17.5(6) Request denied and opportunity to seek injunction. If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of the reasons for that determination. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

581—17.6(19A) Procedure by which a person who is the subject of a record may have additions, dissents, or objections entered into a record. Except as otherwise provided by law, the subject of a record may file a request with the custodian to review and to have the right to have a written statement of additions, dissents, or objections entered into a record under the jurisdiction of the department. However, this does not authorize a person who is a subject

of a record to alter the original copy of the record or to expand the official record of a department proceeding. The subject shall send the request to review a record or the written statement of additions, dissents or objections to the department. Statements pertaining to the Iowa public employees' retirement system shall be sent to that office. The statement must be dated and signed by the subject, and shall include the current mailing address of the subject or the subject's representative.

581-17.7(19A) Consent to disclosure by the subject of a confidential record. The subject of a confidential record under the jurisdiction of the department may consent to disclosure to a third party of that portion of the record concerning the subject except as provided in subrule 17.12(1). The consent must be in writing and must identify the particular record that may be disclosed, the particular person or class of persons to whom the record may be disclosed, and, where applicable, the time period during which the record may be disclosed. The subject and, where applicable, the person to whom the record is to be disclosed, must provide proof of identity.

581-17.8(19A) Notice to suppliers of information. When a person is requested to supply information about that person that will become part of a record under the jurisdiction of the department, that person shall be notified of the use that will be made of the information, which persons outside the department might routinely be provided the information, which parts of the requested information are required and which are optional, and the consequences of not providing the information requested. This notice may be given in rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

581-17.9(19A) Disclosures without the consent of the subject.
17.9(1) Open records shall be routinely disclosed without the consent of the subject.
17.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a. For a routine use as defined in rule 581-17.10(19A) or in the notice for a particular record system.
- b. To a recipient who has provided advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.
- c. To another government agency or to an instrumentality of any government jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the government agency or instrumentality has submitted a written request to the custodian specifying the record desired and the law enforcement activity for which the record is sought.
- d. To an individual following a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known mailing address of the subject.
- e. To the legislative fiscal bureau under Iowa Code section 2.52.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. In response to a court order or subpoena.

581-17.10(19A) Routine use.
17.10(1) Defined. "Routine use" means the disclosure of a record, without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

17.10(2) To the extent allowed by law, the following uses are considered routine uses of all records under the jurisdiction of the department:

- a. Disclosure to officers, employees and agents of the department who have a need for the record in the performance of duties. The director shall resolve disputes concerning what constitutes legitimate need to use confidential or exempt records.
- b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.
- c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of an agency.
- d. Transfers of information within an agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
- e. Information released to staff of federal, state, or other governmental entities for audit purposes or for purposes of determining whether an agency is operating a program lawfully.
- f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.
- g. Distribution of lists of state employees to other than governmental entities.
- h. Distribution of seniority lists to unions.
- i. Disclosure to officers, employees and agents of the department who need to use the record to determine the named beneficiary when a wage earner or retiree dies; to maintain a record of wages reported and quarters worked for computation of benefits; to track benefits received; to recompute and adjust benefits; to update information for electronic deposit of benefits; and to audit payroll reports; and to verify quarterly update of wages paid.

581-17.11(19A) Consensual disclosure of confidential records.

17.11(1) Consent to disclosure by a subject individual. The subject may consent in writing to disclosure of confidential records as provided in rule 581-17.7(19A).

17.11(2) Complaints to public officials. A letter from a subject of a confidential record that involves a record under the jurisdiction of the department may be treated as an authorization to release sufficient information about the subject to the official to resolve the matter. Obtain information to establish eligibility for insurance, coordinate benefits, verify applicant and employee information or to provide other services. Requests to third parties for this information may involve the release of confidential identifying information about individuals contained in records under the jurisdiction of the department. Such requests are within the meaning of routine use as defined in rule 581-17.10(19A) and shall not require authorization from the subject of the record.

581-17.12(19A) Release to subject.

17.12(1) Records shall be released to the subject of a confidential record upon a written request. The department need not release the following records or information to the subject: a. The identity of a person providing information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18).

b. Records that are the work products of an attorney or are otherwise privileged. See Iowa Code section 22.7(5).
 c. Peace officers' criminal investigative reports except as required by the Iowa Code. See Iowa Code section 22.7(5).
 d. As otherwise authorized by law.
 17.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, reasonable steps shall be taken to protect confidential information relating to other subjects in the record.

581-17.13(19A) Availability of records.

17.13(1) Open records. Records under the jurisdiction of the department are open for public inspection and copying unless otherwise provided by these rules.

17.13(2) Confidential records. The following records under the jurisdiction of the department may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

- a. Sealed bids received prior to the time set for public opening of bids. See Iowa Code section 72.3.
- b. Tax records made available to the department. See Iowa Code sections 422.17 and 422.20.
- c. Records which are exempt from disclosure under Iowa Code section 22.7.
- d. Minutes of closed meetings of a government body under Iowa Code section 21.5(4).
- e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "d."

f. Those portions of staff manuals, examination materials, instructions or other statements issued which set forth criteria or guidelines to be used in auditing, in making inspections, in settling commercial or labor disputes or negotiating commercial or labor contract arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

- (1) Enable law violators to avoid detection; or
- (2) Facilitate disregard of requirements imposed by law; or
- (3) Give a clearly improper advantage to persons who are in an adverse position to the department. See Iowa Code sections 17A.2 and 17A.3.

g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c) Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Any other records made confidential by law.

17.13(3) Authority to release confidential records. The department may disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect particular records withheld from inspection as confidential records. If it is initially determined that records will be released, reasonable efforts will be made, where appropriate, to notify interested persons and the records may be withheld from inspection for up to ten days to allow interested persons to seek injunctive relief.

581-17.14(19A) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by personal identifier in record systems defined in rule 581-17.1(19A). For each record system, this rule describes the legal authority for the collection of that information and the means of storage of that information, and indicates whether a data processing system matches, compares, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. Record systems under the jurisdiction of the department that are retrievable through the use of personal identifiers are described as follows:

17.14(1) Personnel records. This system consists of records that concern individual state employees and their families, as well as applicants for state employment. This system contains material on preemployment information; health, dental, life, and long-term disability insurance; pay and benefit documents; position description questionnaires; affirmative ac-

tion and equal employment opportunity; grievances and appeals; performance planning and evaluation; training; deferred compensation; workers' compensation; and other material incident to the employment of individuals. These records are collected in accordance with Iowa Code chapters 19A, 19B, 20, and 79, and are confidential records in part under Iowa Code section 22.7 and other law. These records contain names, social security numbers, and are collected in the form of paper, microfilm, tape, and computer records. Computer records permit the comparison of personally identifiable information in one record system with that in another system.

17.14(2) Employee payroll records. This system consists of records that concern individual state employees and their families. This system contains information on workers' compensation; health, dental, life, and long-term disability insurance; pay and benefits; equal employment opportunity; training; deferred compensation; and other information incident to the employment of individuals. Records under the jurisdiction of the department are collected in accordance with Iowa code chapters 19A, 19B, 20, and 79, and are confidential records in part under Iowa Code section 22.7 and other law. These records contain names, social security numbers, and are collected in the form of paper, microfilm, tape, and computer records. Computer records permit the comparison of personally identifiable information in one record system with that in another system.

17.14(3) Public safety peace officers' retirement, accident and disability system. This system consists of records that concern individual state employees and their families who are covered by the public safety peace officers' retirement, accident and disability system. Records are collected in accordance with Iowa Code chapters 19A and 97A and are confidential records in part under Iowa Code section 22.7 and other law. These records contain names, social security numbers, and are collected in the form of paper, microfilm, tape, and computer records. Computer records permit the comparison of personally identifiable information in one record system with that in another system.

17.14(4) Iowa public employees' retirement system. This system consists of records that concern individual state employees and their families who are covered by the Iowa public employees' retirement system. Records are collected in accordance with Iowa Code chapters 19A and 97B and are confidential records in part under Iowa Code section 22.7 and other law. These records contain names, social security numbers, and other identifying numbers, and are collected in the form of paper, microfilm, tape, and computer records. Computer records permit the comparison of personally identifiable information in one record system with that in another system.

17.14(5) Contracts. These are records pertaining to training, consultants, and other services. These records are collected in accordance with Iowa Code chapters 19A and 19B and are confidential records in part under Iowa Code section 22.7. These records contain names, social security numbers, and other identifying numbers, and are collected in the form of paper, microfilm, tape, and computer records. Computer records permit the comparison of personally identifiable information in one record system with that in another system.

581—17.15(19A) Other groups of records routinely available for public inspection. This rule describes groups of records maintained by the department other than those record systems retrieved by individual identifiers as defined in rule 581—17.1(19A). These records are routinely available to the public subject to costs. However, these records may contain confidential information. In addition, the records listed in subrules 17.15(1) to 17.15(4), 17.15(6), and 17.15(9) may contain information about individuals. All records may be stored on paper, microfilm, tape or in automated data processing systems unless otherwise noted.

17.15(1) Rule making. Rule-making records may identify individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

- 17.15(2) Board and commission records. Agendas, minutes, and materials presented to boards and commissions within the department are available from the department except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4) or which are otherwise confidential by law. These records may identify individuals who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. Publications. News releases, annual reports, final project reports, department newsletters, and brochures describing various programs are available from the department. 17.15(4) Department news releases, final project reports, and newsletters may contain information about individuals, including staff or members of boards or commissions. 17.15(5) Statistical reports. Periodic reports of activity for various department programs are available from the department. 17.15(6) Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that is confidential according to rule 581-17.5(19A) or subrule 17.13(2). These records, collected under the authority of Iowa Code chapters 19A, 19B, 20, 79, 97A, and 97B may contain information about individuals. 17.15(7) Published materials. The department uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright laws. 17.15(8) Policy manuals. The department's manuals containing the policies and procedures for programs administered by the department are available at the offices of the department. 17.15(9) Administrative records. These are records related to the budgets of the department, the requisition of equipment and supplies, the payment of claims, and other accounting functions as well as records kept by the investments section of the IPERS division, including information on investment policies and portfolios. The records are partially confidential under Iowa Code section 22.7. 17.15(10) All other records not exempted from disclosure by law.
- 581-17.16(19A) Comparison of data processing systems. All data processing systems used by the department permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.
- 581-17.17(19A) Applicability. This chapter does not:
- 17.17(1) Require the indexing or retrieval of records which contain information about individuals by that person's name or other personal identifier.
- 17.17(2) Make records available to the general public which would otherwise not be available under the public records law, Iowa Code chapter 22.
- 17.17(3) Govern the maintenance or disclosure of, notification of, or access to, records in the possession of the department which are under the jurisdiction of another agency.
- 17.17(4) Apply to grantees, including local governments or their subdivisions, administering state-funded programs unless otherwise provided by law or agreement.
- 17.17(5) Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings. The availability of those records to the general public or to any individual or party to litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the department.
- 581-17.18(19A) Agency records.
- 17.18(1) Each agency shall maintain a file of personnel records on each employee and each applicant for employment as specified by the department in rule or policy. All employee and applicant records are under the jurisdiction of the department.

- 17.18(2) The appointing authority shall give each employee copies of all materials placed in their file unless determined otherwise by the department. The appointing authority shall provide copies of records to the department as requested.
- 17.18(3) When an employee is transferred, promoted or demoted from one agency to another agency the employee's personnel records shall be sent to the receiving appointing authority by the former appointing authority.
- 17.18(4) The director shall prescribe the forms to be used for collecting and recording information on employees and applicants for employment, as well as the procedures for the completion, processing, retention, and release of those forms and records, as well as the information contained on them.

581-18.1(19A) General. Employees shall fulfill to the best of their ability the duties and responsibilities of the positions to which appointed. In carrying out their official job duties, employees shall work for the appointing authority's efficient and effective delivery of services. Employees shall perform assigned responsibilities in such a manner as neither to endanger their impartiality nor to give occasion for distrust or question of their impartiality.

Eff. 5/8/92

581-18.2(68B) Selling of goods or services. Employees in state regulatory agencies shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the agency of employment except as authorized by the appointing authority in accordance with Iowa Code Supplement section 68B.4 and provisions of this rule.

18.2(1) Definitions. "Agency" means one of the state executive branch regulatory agencies as defined in Iowa Code sections 68B.2(1) and 68B.2(13). "Compensation" means remuneration for the sale of goods or services, including cash or other forms of payment. "Employee" means a nontemporary employee of an executive branch regulatory agency of state government. The provisions of this rule shall also apply to the spouse and minor children of an employee, a firm in which the employee is a partner, and any corporation in which the employee, either directly or indirectly, holds 10 percent or more of the stock. Employee, as used in this rule, shall not mean an independent contractor, or an official in a regulatory agency who is (1) elected or appointed to serve on a board, commission, or elective office; (2) a department head; or (3) any other individual who by law is appointed by the governor. "Sale of goods or services" means the receipt of compensation by an employee for providing goods or services. For purposes of this rule, the sale of goods or services shall not apply to outside employment activities that constitute an employer-employee relationship.

18.2(2) Requests for agency consent. Requests for the sale of goods or services shall be subject to the following:

a. A written request for the sale of goods or services shall be filed with the appointing authority at least 20 calendar days in advance of the proposed sale of goods or services. A request shall not be considered filed until all information specified below is received.

b. The request shall include, but not be limited to, the following:

(1) The prospective recipient(s) of the goods or services and the recipient's relationship to the agency's regulatory authority;

(2) Anticipated date(s) of delivery of the goods or services;

(3) Description of the goods or services;

(4) Approximate amount and form of compensation; and

(5) Statement by the employee explaining why the proposed sale of goods or services will not create a conflict of interest.

c. Consent or denial of the request shall be issued in writing by the appointing authority within 14 calendar days following the date the request was filed. If the request is denied, the appointing authority shall state the reason(s) for the denial and the employee's right to grieve the decision in accordance with rule 581-12.1(19A).

d. If the decision is grieved, the employee shall be required to substantiate, as part of the grievance, why the proposed sale of goods or services will not create a conflict of interest within the meaning of Iowa Code Supplement section 68B.4.

e. Approved requests are valid only to the extent that all relevant facts have been disclosed and the relevant facts under which consent was granted remain unchanged.

f. Approved requests are subject to immediate revocation at any time with written notice

by the appointing authority to the requester.

g. Requests and responses are public records within the meaning of Iowa Code section 22.1

and are open for public examination.

18.2(3) *Agency guidelines.* Agencies that are subject to this rule shall develop written guide-

lines concerning the selling of goods or services by their employees. The guidelines shall be

consistent with the provisions of this rule and shall include, but not be limited to, the following:

1. A description of the regulatory authority of the agency and the types of individuals, as-

sociations, or corporations that are subject to this authority;

2. The conditions for granting consent as provided in Iowa Code section 68B.4.

3. A procedure for submitting requests to sell goods or services consistent with subrule 18.2(2);

and

4. The name or position of the appointing authority who will review and approve or deny

such requests.

The guidelines shall be made known and available to employees throughout the agency

through well-publicized means.

18.2(4) *Expressly prohibiting or permitting classes of sales.* An agency may adopt rules

which identify sales of goods or services that are expressly prohibited (or permitted) by the

agency, based on the agency's conclusion that the sales do (or do not), as a class, constitute

a conflict of interest. Classes of sales that are expressly permitted by the agency shall not

require individual requests and approval as provided in subrule 18.2(2) unless there are unique

factors that otherwise present a conflict of interest.

18.2(5) *Effect of other laws.* Neither this rule nor any consent provided under this rule

constitutes consent for any activity which would constitute a conflict of interest at common

law or which would violate any applicable statute or rule. Despite consent under this rule,

the sale of goods or services to someone subject to the jurisdiction of the agency may violate

the gift, bribery, or corruption laws of the state of Iowa. It is the responsibility of the em-

ployee to assure compliance with all applicable laws and to avoid both impropriety and the

appearance of impropriety.

This rule is intended to implement Iowa Code Supplement section 68B.4.

581—18.3(19A) *Other employment or activity.* Employees shall not engage in any outside

employment or activity which has been reasonably determined and made known in writing

by the appointing authority to be inconsistent, incompatible, or in conflict with employees'

job duties and responsibilities.

In making that determination appointing authorities shall give consideration to, but are not

limited to, activities which:

18.3(1) Involve private gain or advantage by the use of the state's time, facilities, equip-

ment and supplies; or, the use of the badge, uniform, prestige, or influence of the employees'

job.

18.3(2) Involve the receipt of, promise of or acceptance by an employee of any money

or other consideration from anyone, other than the state, for the performance of any act that

the employee would be required or expected to perform as a part of regular duties or during

hours of state employment.

18.3(3) Involve the performance of an act or work, in other than the employee's job as

a state employee, which may later be subject, directly or indirectly, to control, inspection,

review, audit, or enforcement by the employee or the appointing authority for which the em-

ployee works.

581—18.4(19A) Performance of duty. Employees shall, during scheduled hours of work, devote their full time, attention and efforts to assigned duties and responsibilities subject to the Iowa Code and the Iowa Administrative Code. Tenure of employment is dependent upon the satisfactory performance of assigned duties and responsibilities as well as appropriate conduct as provided for in these rules. This rule shall not be interpreted to prevent the separation or reduction of employees because of the lack of funds, curtailment of work, or reorganization done in accordance with these rules, the Iowa Code, or the provisions of a collective bargaining agreement.

581—18.5(19A) Prohibitions relating to certain actions by state employees.

18.5(1) Employees shall not be prohibited from disclosing any information to members or employees of the general assembly, or to any other public official or law enforcement agency if the employee believes the information is evidence of a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

a. This subtitle does not apply to the disclosure of information prohibited by statute.

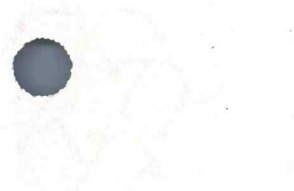
b. Agencies are prohibited from making reprisals in the form of a disciplinary action or failure to appoint or promote an employee who discloses information or who declines to contribute to a charity or organization. Reprisals for disclosing information shall be subject to civil action.

18.5(2) Employees may contact the office of the Iowa citizens' aide at 1-800-358-5510 to report violations of this rule.



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CHAPTER 19
GENERAL ADMINISTRATION
Effective 12/10/86

581—19.1(19A) State system of personnel administration is established by Iowa Code chapter 19A. The operational unit of the system is the department of personnel. Specific powers and duties of the department, its director, and the boards and commissions within the department are set forth in Iowa Code chapters 19A, 19B, 20, 79, 97A, 97B, 97C, and 509A.

19.1(1) Operational entities within the department are responsible for programs that include the development and administration of policies and procedures governing employee compensation (salaries and wages); benefit programs, including health, life, dental and disability insurance, unemployment and workers' compensation and deferred compensation and annuities; audit of payroll and other personnel transactions; professional personnel services to state departments; the communication of employment and personnel information to employees and supervisors throughout state government; the development and administration of policies and procedures concerning the recruitment, testing, and certification of personnel seeking employment or promotion; equal employment opportunity and affirmative action; and employee assistance, education, and training.

19.1(2) The director may establish other offices staffed by employees of the executive branch of funds contributed to the retirement system by employers and employee members. agencies in which they are employed to carry out the personnel management functions of the state personnel system. The functions performed and the services provided by these offices as well as the staff assigned to perform these functions are subject to policies set by the director. 19.1(3) The director has the statutory authority to designate an employee of the department to carry out the powers and duties of the director in the absence of, or the inability of the director to do so.

19.1(4) Information requests, materials submissions or inquiries concerning any operation or function of the department shall be addressed to the Director, Iowa Department of Personnel, Grimes State Office Building, East Fourteenth Street at Grand Avenue, Des Moines, Iowa 50319-0150. Telephone inquiry to the department may be made through listings provided in the City of Des Moines telephone directory or the Iowa Capitol Complex telephone directory. 19.1(5) There is a personnel commission within the department composed of five members appointed to six-year terms by the governor and confirmed by the senate. Meetings are held at least quarterly at the call of the chair. Responsibilities of the personnel commission are:

- a. Adopt rules to implement specific provisions of Iowa Code chapter 19A;
- b. Approve additions to the classification plan;
- c. Hold public hearings on pay plan changes;
- d. Make an annual report to the governor.

19.2(1) Filing. Any person or agency may file a petition with the director for a declaratory ruling concerning the applicability of any statute, rule, policy, decision, or order, administered by the department. A petition is considered filed when it is received in the department. The director shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides an extra copy for that purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

Iowa Department of Personnel

Before the

Petition by (name of petitioner) _____)
 for a Declaratory Ruling on _____)
 (cite provisions of law involved) _____)
 _____)
 PETITION FOR DECLARATORY RULING _____)

The petitioner must provide the following information:
 a. A clear and concise statement of all relevant facts on which the ruling is requested.

- b. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
- c. The questions that the petitioner wants answered, stated clearly and concisely.
- d. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
- e. The reasons for requesting the declaratory ruling and disclosure of the petitioner's interest in the outcome.
- f. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
- g. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition. The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and the petitioner's representative, and a statement indicating the person to whom communications concerning the petition shall be directed.
- 19.2(2) *Briefs.* The petitioner may attach a brief to the petition in support of the position urged in the petition. The agency may request a brief from the petitioner or from any other person concerning the questions raised in the petition.
- 19.2(3) *Inquiries.* Inquiries concerning the status of a petition for a declaratory ruling may be made to the director at the offices of the department.
- 19.2(4) *Consideration.* The director may request the petitioner to submit additional information or argument concerning the petition. The director may solicit comments from any person on the questions raised in the petition. Also, comments on those questions may be submitted to the director by any person.
- Within 30 calendar days after the filing of the petition, or within any longer period agreed to by the petitioner, the director shall, in writing, issue a ruling on the petition or refuse to do so. It shall be deemed to have been issued on the date mailed to the petitioner.
- 19.2(5) *Refusal to issue ruling.* The director may refuse to issue a declaratory ruling for good cause. Good cause includes, but is not limited to, the following reasons:
- a. The petition does not substantially comply with the required form.
- b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the director to issue a ruling.
- c. The director does not have jurisdiction over the questions raised in the petition.
- d. The questions raised in the petition are also presented in a current rule making, contested case, or other department or judicial proceeding, that may definitively resolve them.
- e. The questions raised in the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
- f. The facts or questions raised in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a ruling.
- g. There is no need to issue a ruling because the questions raised in the petition have been settled due to a change in circumstances.
- h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a department decision already made.
- i. The petition requests a declaratory ruling that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions raised may fairly be presumed to be adverse to that of the petitioner.
- j. The petitioner requests the director to determine whether a statute is unconstitutional on its face.
- A refusal to issue a declaratory ruling must indicate the specific grounds for the refusal and constitutes final agency action on the petition. Refusal to issue a declaratory ruling pursuant

to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds

for the director's refusal to issue a ruling.

19.2(6) Contents of declaratory ruling—effective date. In addition to the ruling itself, a

declaratory ruling must contain the date of its issuance, the name of the petitioner, the specific

statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is

based, and the reasons for its conclusion.

A declaratory ruling is effective on the date of issuance.

19.2(7) Effect of a declaratory ruling. A declaratory ruling is binding on the department

and the petitioner and is applicable only in circumstances where the relevant facts and the

law involved are indistinguishable from those contained in the petition. As to all other per-

sons, a declaratory ruling serves only as precedent and is not binding on the department. The

issuance of a declaratory ruling constitutes final agency action on the petition.

581—19.3(19A) Petition for rule making.

19.3(1) Filing. Any person or agency may file a petition for rule making with the director.

A petition is deemed filed when it is received in the department. The director shall provide

the petitioner with a file-stamped copy of the petition if the petitioner provides an extra copy

for that purpose. The petition must be typewritten or legibly handwritten in ink and must

substantially conform to the following form:

Before the

Iowa Department of Personnel

Petition by (name of petitioner)	(
for the (adoption, amendment, or)	
repeal) of rules relating to)	
(state subject matter).)	
)	PETITION FOR
)	RULE MAKING

The petition must provide the following information:

a. A clear statement of the specific rule-making action sought by the petitioner including

the text or a summary of the contents of the proposed rule or amendment to a rule and, if

it is a petition to amend or repeal a rule, a citation and the relevant language to the particular

portion or portions of the rule proposed to be amended or repealed.

b. A citation to any law deemed relevant to the department's authority to take the action

urged or to the desirability of that action.

c. A brief summary of petitioner's arguments in support of the action urged in the petition.

d. A brief summary of any data supporting the action urged in the petition.

e. The names and addresses of other persons, or a description of any class of persons, known

by petitioner to be affected by, or interested in, the proposed action which is the subject of

the petition.

19.3(2) Content. The petition must be dated and signed by the petitioner or the petition-

er's representative. It must also include the name, mailing address, and telephone number of the

petitioner and the petitioner's representative, and a statement indicating the person to whom

communications concerning the petition shall be directed.

19.3(3) Denial. The director may deny a petition because it does not substantially con-

form to the required form.

19.3(4) Briefs. The petitioner may attach a brief to the petition in support of the action

urged. The director may request a brief from the petitioner or from any other person con-

cerning the substance of the petition.

19.3(5) Inquiries. Inquiries concerning the status of a petition for rule making may be

made to the director at the offices of the department.

19.3(6) Consideration.

a. The director may request the petitioner to submit additional information or argument

concerning the petition. The director may also solicit comments from any person on the sub-

stance of the petition. Also, comments on the substance of the petition may be submitted

to the director by any person.

b. Within 60 calendar days after the filing of the petition, or within any longer period agreed to by the petitioner, the director shall, in writing, deny the petition and notify the petitioner of that action and the specific grounds for the denial, or grant the petition and notify the petitioner that rule-making proceedings have begun.

The petitioner shall be deemed notified of the denial or granting of the petition on the date the notification is mailed.

c. Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the director's rejection of the petition.

19.4 Rescinded, effective 4/13/88

581—19.5(19A) Drug use and drug tests.

19.5(1) Policy. Employees shall not report to work while under the influence of alcohol or illegal drugs. The unauthorized use, possession, sale, purchase, manufacture, distribution, or transfer of any illegal drug or alcoholic beverage while engaged in state business or on state property is prohibited. Employees who violate this policy are subject to disciplinary action up to and including discharge.

19.5(2) Definition and applicability.

a. "Drug test" means any blood, urine, saliva, chemical, or skin tissue test conducted for the purpose of detecting the presence of a chemical substance in an individual. These rules authorize only the use of urinalysis tests for this purpose. Other methods of drug testing are prohibited.

b. These rules do not apply to drug tests required under federal statutes, drug tests conducted pursuant to a nuclear regulatory commission policy statement, or drug tests conducted to determine if an employee is ineligible to receive workers' compensation under Iowa Code section 85.16, subsection 2.

19.5(3) Preemployment drug tests. A urinalysis drug test may be performed as part of a preemployment physical only for department of corrections correctional officer positions. Application materials for these positions shall include clear notice that a drug test is part of the preemployment physical. Requirements for these tests are as follows:

- a. A urine sample will be collected during the preemployment physical examination.
- b. The sample container will include identification for chain of custody purposes that does not include any part of the applicant's name or social security number.
- c. The container will be transported directly from the site of the physical examination to a laboratory or other testing facility. Samples may be transported via certified mail or courier service.

d. The sample will be tested and retained by the laboratory or other testing facility for a minimum of 30 days. The applicant may have the sample analyzed, at the applicant's expense, by a laboratory or other testing facility approved in accordance with the administrative rules of the department of public health.

e. Each drug test will include an initial screen and a confirmation of positive results. The initial screening test may utilize immunoassay, thin layer, high performance liquid or gas chromatography, or an equivalent technology. If the initial test utilizes immunoassay, the test kit must meet the requirements of the Food and Drug Administration. All confirmation tests will be done by Gas Chromatography - Mass Spectrometry (GC-MS) at a laboratory or other testing facility approved in accordance with the administrative rules of the department of public health.

- f. At a minimum, tests will screen for marijuana, cocaine, and amphetamines.
- g. Procedures for obtaining, sealing, identifying, transporting, storing, and retention of samples shall protect the chain of custody and the viability of the sample, and shall comply with department of public health administrative rules.
- h. The laboratory or other testing facility shall report the results of the drug tests to the appointing authority. The confidentiality of the information shall be protected by all parties.

Eff. 7/1/88
Eff. 3/30/90

i. The appointing authority shall provide an applicant an opportunity to rebut or explain the results of a positive drug test by administering a pretest questionnaire or arranging a post-test conference with the applicant.
j. A positive confirmation drug test will disqualify an applicant from further consideration and hire for department of corrections correctional officer positions.
19.5(4) *Employee drug tests.* Drug testing of employees is prohibited except as provided in subrule 19.5(2), paragraph "b."

EFF. 3/30/90



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!. The appointing authority shall provide an applicant an opportunity to rebut or explain the results of a positive drug test by administering a pretest questionnaire or arranging a post-test conference with the applicant.
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CHAPTER 20
EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

Effective 11/12/86

581—20.1(19B) Definitions. The following definitions shall be applied to the rules in this chapter.

"Affirmative action" means action appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity.
"Availability" means the extent to which protected class members are qualified or qualified to be employed in classes within EEO-4 occupational category.
"Disabled person" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

EFF. 9/1/89

"EEO-4 income bracket" means the annual salary ranges as defined by the Equal Employment Opportunity Commission. Where employees are paid on other than an annual basis, their regular earnings shall be expanded and expressed in terms of an annual income.
"EEO-4 occupational categories" means officials and administrators, professionals, technicians, protective service workers, paraprofessionals, administrative support workers, skilled craft workers and service maintenance workers, as defined by the federal Equal Employment Opportunity Commission guidelines.
"EEO-4 report" means the annual state employment data report as required by the federal Equal Employment Opportunity Commission.

EFF. 10/26/88

"Equal employment opportunity" means equal access to employment or training opportunities regardless of race, color, creed, age, sex, age, national origin or physical or mental disability.
"Organizational unit" means those agency units which lend themselves to the most reasonable system of grouping for analysis even though they may not necessarily coincide with the agency's administrative divisions.

EFF. 10/26/88

"Protected class" means racial or ethnic minorities, sex, age, creed, color, national origin, religion, mental and physical disability.
"Racial or ethnic minorities" means Black, Hispanic, Asian and Pacific Islander, American Indian and Alaskan natives.
"Relevant labor force" means that group of persons in the general population of a specified geographic area who are qualified to perform a particular type of work.
"Utilization" means the extent to which minorities, females, and persons with disabilities are represented within an agency's work force as compared to their availability in the relevant labor force.

EFF. 9/16/87

EFF. 9/16/87

EFF. 7/20/90

"Work force" means an agency or organizational unit's full-time employees and other than full-time employees.

EFF. 9/16/87

EFF. 7/20/90

581—20.2(19B) Plans, policies and records.
20.2(1) Each agency or an entity approved by the director shall prepare and implement a written affirmative action plan with goals and timetables which conform to the requirements of Iowa Code chapter 19B.
20.2(2) Each agency shall issue policies outlining the agency's position on equal employment opportunity, affirmative action and harassment. Agency policies shall describe procedures available for affected employees to redress their grievances.

20.2(3) Each agency shall keep records as required by the director. These records shall, at a minimum, include tracking of the composition of applicant groups, their movement through steps in the hiring processes, and the impact of personnel actions on various group members when records are not otherwise available in centralized information systems. Each agency

shall submit to the director, as requested, timely, complete, and accurate reports related to required records in accordance with rule 581—20.5(19A).

581—20.3(19B) Planning standards. Each affirmative action plan shall include, but not be limited to, the following standards:

20.3(1) *Affirmative action statement.* The affirmative action statement shall include, but not be limited to, the following:

a. Policy statement. The policy statement shall be a clear and unambiguous declaration of commitment to the principles of equal employment opportunity and affirmative action in the application of all personnel rules, policies, and practices. It shall contain the following or similarly worded language.

(1) The agency prohibits discrimination in its employment policies and practices on the basis of race, creed, color, religion, national origin, sex, age, or mental and physical disability.

(2) The agency is an equal employment opportunity and affirmative action employer.

b. Administration statement. The administration statement shall be a declaration of how the agency's affirmative action policy is to be implemented. It shall contain the following:

(1) The name, job title, and work location of the responsible equal employment opportunity or affirmative action official.

(2) The internal system for auditing and reporting.

c. Signature. The affirmative action statement shall be signed and dated by the appointing authority.

20.3(2) *Work force analysis.* A work force analysis shall show the numerical and percentage breakdown of the agency's full-time employees, and other than full-time employees, separately by racial or ethnic minorities, sex, and disability. Full-time and other than full-time employees shall be arrayed according to the EEO-4 occupational categories with further census occupational subcategory breakdowns as required by the director. For the purposes of confidentiality, disability shall be totaled only by an organizational unit covered by an individual affirmative action plan or the department as a whole.

a. Exemptions. The work force analysis shall not include elected officials; such officials' immediate secretary, administrative, legislative, or other immediate or first-line aides; and such officials' legal advisor.

b. Organizational unit. An agency with a large number of employees may be required to conduct a separate work force analysis for each of its organizational units. The organizational units may be determined by the agency based on the size, geographic dispersion and administrative lines of authority of its work force.

c. Confidentiality. An agency may suppress work force data which is likely to identify specific employees and violate their confidentiality.

d. Analysis report. The work force analysis shall be reported on forms available from the department. An agency may request approval of a similar report required by another regulatory agency as part of its work force analysis.

20.3(3) *Availability analysis.* An availability analysis shall show the percentage breakdown by racial or ethnic minorities and sex of the relevant labor force arrayed according to their EEO-4 occupational categories and relevant subcategories. The analysis shall include an assessment of the relevant available labor force by using the geographic area from which work force recruitment can reasonably occur for each EEO-4 occupational category. The geographic area will usually be larger for high-paid or high-ranked classifications for recruitment purposes. The labor force availability of disabled persons shall be based on census reports of persons with a work disability residing in the western section of the north central region of the United States as defined by the census bureau.

a. Analysis method. The percentage breakdown by racial or ethnic minorities and sex shall be determined by:

(1) The analysis method promulgated by OFCCP, 41 Code of Federal Regulations, Chapter 60, Revised Order No. 4, or

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a. *Analysis method.* The percentile breakdown by racial or ethnic minorities and sex shall be determined by:

- (1) The analysis method promulgated by OFCCP, 41 Code of Federal Regulations, Chapter 60, Revised Order No. 4, or
- (2) The report entitled Race, Sex, and Occupational Make-up of Iowa's 1980 Labor Force, or other data sources approved by the department.

(3) The department may grant exceptions only if an agency can document that its availability analysis is comparable to those provided by subparagraphs (1) and (2) above. Exceptions may include the use of relevant national labor force data for the officials' and administrators' category.

b. *Organizational unit.* An availability analysis shall be conducted for each organizational unit by an agency which conducted a separate work force analysis pursuant to subrule 20.3(2), paragraph "b."

c. *Analysis report.* The availability analysis shall be reported in a format prescribed by the department. In lieu of completing all parts of the availability analysis form, an agency may submit a similar report required by another regulatory agency, such as a federal funding agency, as part of its availability analysis if approved by the department.

d. Rescinded, IAB 9/21/88, effective 10/26/88.

20.3(4) *Quantitative utilization analysis.* A quantitative utilization analysis shall compare work force analysis with availability analysis to show the numerical and percentile underrepresentation in the agency's work force, if any, by racial or ethnic minorities and sex.

a. *Rounding.* All partial numerical figures for EEO-4 occupational categories that contain .5 or more shall be rounded upward and .49 or less shall be rounded downward to the nearest whole number.

b. *Organizational unit.* A quantitative utilization analysis shall be conducted for each organizational unit by an agency which conducted a separate work force analysis pursuant to subrule 20.3(2), paragraph "b."

c. *Analysis report.* The quantitative utilization analysis shall be reported in the format prescribed by the department. In lieu of completing all parts of the quantitative utilization analysis form, an agency may submit a similar report required by another regulatory agency, such as a federal funding agency, if approved by the department.

d. Rescinded, IAB 9/21/88, effective 10/26/88.

20.3(5) *Qualitative utilization analysis.* A qualitative utilization analysis shall show whether and where an agency's employment policies and practices do or tend to exclude, disadvantage, restrict or result in adverse impact on the basis of age, sex, disability, and racial or ethnic minorities. It shall also show whether and where effects of prior illegal discrimination are left uncorrected. The analysis may include, but not be limited to, the following areas:

- a. Recruitment efforts and methods.
- b. Applicant flow characteristics study.
- c. Interview, selection, appointment, and placement policies and practices.
- d. Policies and practices affecting transfers, promotions, and reallocations.
- e. Selection of employees for training.
- f. Policies and practices in demotion, discipline, termination, and reduction in force.
- g. Laws, policies, and practices external to the agency that discourage effective results in affirmative action.

20.3(6) *Goals and timetables.* An agency's affirmative action goals and timetables shall specify the appropriate actions and time frames in which problems identified under subrules 20.3(4) and 20.3(5) are targeted to be remedied.

a. *Appropriate action.* In setting goals, an agency may consider, but not be limited to, the following:

- (1) Devising a recruitment program in conjunction with the state recruitment coordinating committee authorized under the department.
- (2) Validating the selection instruments in conjunction with the department.

(3) Revising and improving other personnel policies and practices.

(4) Providing affirmative action training internally or externally through organizations such as the Iowa management training system.

(5) Devising a plan so that agency personnel who impact EEO and affirmative action can have part or all of their performance evaluated on their contribution to meeting the established goals and timetables.

b. Timetable. Each agency shall determine the timetable in which it expects to meet its goals. In setting timetables, an agency should consider, but not be limited to, the following:

(1) Anticipated vacancies and positions.

(2) Work force turnover rate.

c. Organizational unit. Goals and timetables shall be prepared for each organizational unit by an agency which conducted a separate work force analysis pursuant to subrule 20.3(2), paragraph "b."

d. Numerical goals. Numerical goals shall be established by each agency to remedy any underrepresentation identified in subrule 20.3(4). When setting numerical goals, agencies shall utilize the following procedure:

(1) Underutilized classes in which women represent more than 70 percent of the relevant available labor force for that occupational subcategory are exempt from this procedure when setting goals for women.

(2) Annual goals for hires shall be based on underutilization analysis and projected vacancies and set at a percentage rate that is equal to or greater than the labor force availability rate established in subrule 20.3(3).

(3) The percentage rate established in subparagraph (2) of this subrule shall be multiplied by the projected number of openings anticipated in the following year by occupational subcategory to establish the actual numerical hiring goals for each underutilized subcategory.

(4) Goals established for each occupational subcategory shall be totaled to establish goals for each EEO-4 category.

(5) Where projected goals indicate that a period greater than five years is required to remedy any underrepresentation, agencies may be required to revised their goals established in subparagraph (2) of this subrule.

(6) Goals shall not be rigid and inflexible quotas. They must be targets reasonably attainable through good faith effort and must not cause any group of applicants to be excluded from the hiring process.

20.3(7) Consolidation. An agency may consolidate the racial or ethnic minorities and EEO-4 occupational categories into broader groupings in conducting its analysis under subrules 20.3(2), 20.3(3), 20.3(4), 20.3(5), and 20.3(6) with department prior approval.

a. Applicability. Consolidation is applicable when the agency or organizational unit work force has been analyzed according to all the racial or ethnic minorities or occupational categories, and the resultant figures are determined to be too small for significant statistical analysis.

b. Racial or ethnic minorities. The minority racial or ethnic groups may be consolidated into one single group.

c. Occupational categories. The occupational categories may be consolidated into one or more groups.

20.3(8) Comparable plan. An agency plan which is consistent with 41 Code of Federal Regulations, Chapter 60, Revised Order No. 4, Affirmative Action Guidelines, issued by the Office of Federal Contract Compliance Programs, shall be considered to be in compliance with the aforementioned planning standards if the plan is approved as meeting the requirements of subrules 20.3(2), 20.3(5), and 20.3(6).

581-20.4(19B) Dissemination. Each agency shall have an internal and external system for disseminating its affirmative action plan.

20.4(1) Affirmative action plan. The plan shall be distributed to agency employees charged with the responsibility for its implementation and be made available to other agency employees and the public upon request.

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20.4(2) *Affirmative action statement.* The statement shall be disseminated in, but not limited to, the following manner:

- a. A copy shall be given to all agency employees.
- b. It shall be posted on bulletin boards and other conspicuous places throughout the agency.
- c. It shall be distributed to the agency's recruiting sources.

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581-20.5(19B) Reports.

20.5(1) Each agency shall annually submit an affirmative action plan to the department between December 15 and December 31. This plan shall conform to the planning standards specified in these rules.

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20.5(2) Each agency shall submit a quarterly progress report in accordance with the due dates and procedures established by the director.

Eff. 9/16/87

581-20.6(19B) Discrimination complaints.

20.6(1) An agency may develop a procedure to investigate discrimination complaints against the agency from job applicants who are not current state employees. Prior to implementation, the procedure must be approved by the director.

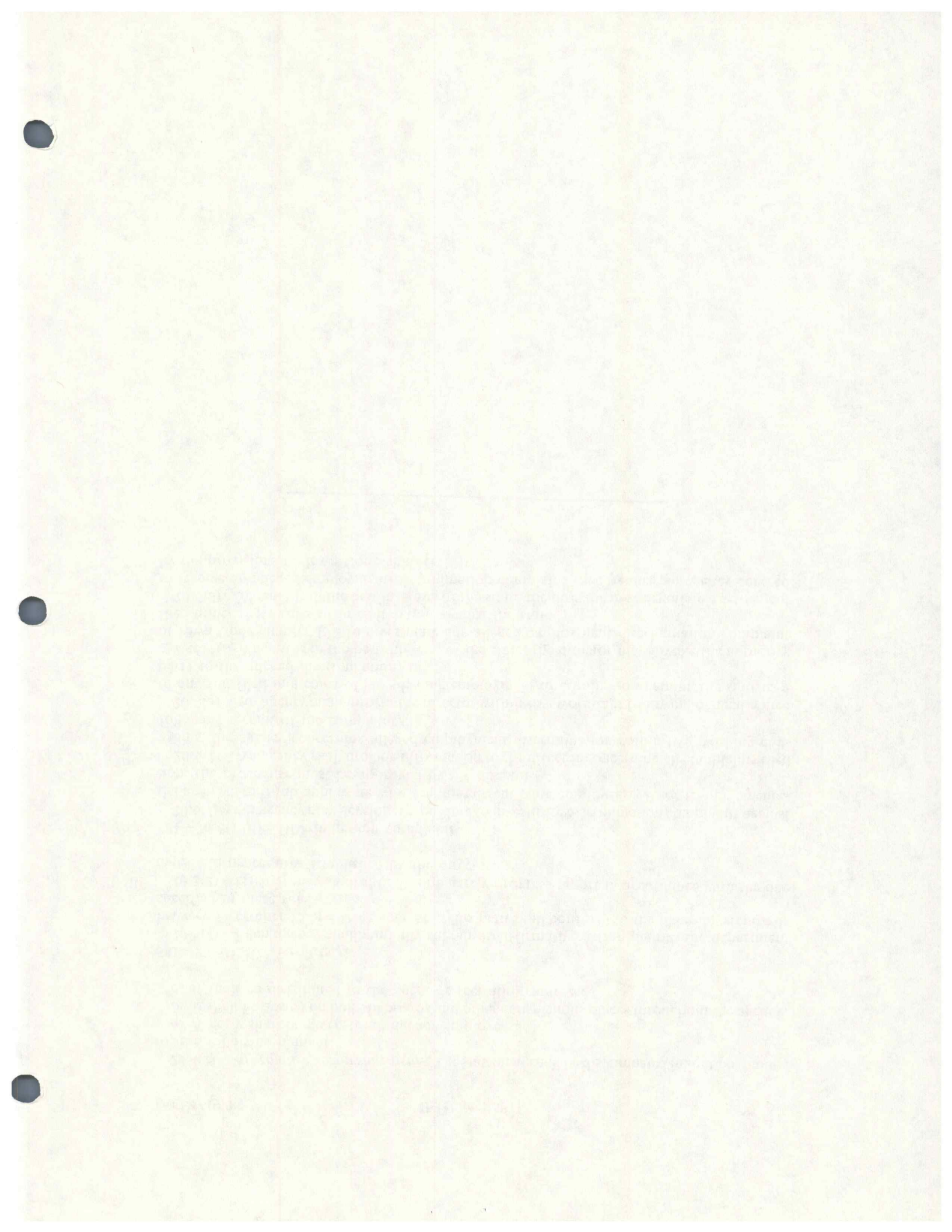
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20.6(2) An agency shall provide information to the director concerning all complaints filed against the agency concerning alleged employment discrimination within five working days following receipt of the complaint.

20.6(3) An agency shall inform the director within five workdays following official notice of any suit filed in a court of law alleging employment discrimination naming the state as a party to the alleged discrimination.

20.6(4) When it is in the best interests of the state, the director may invoke the authority of Iowa Code chapter 19B to investigate any alleged employment discrimination complaint filed under these rules or in civil action against the state.

20.6(5) When it is in the best interests of the state, the director may negotiate a settlement to resolve an alleged employment discrimination complaint filed against an agency covered by the provisions of Iowa Code chapter 19B.



Summary of changes to Chapter 21 (IPERS) Rules

Filed Emergency 6/26/90 (Effective July 1, 1990)
Also filed for Notice of Intended Action 6/26/90
Published 7/25/90 -- Public Hearing 8/31/90
Filed for Adoption 8/31/90 -- Effective 10/24/90

- 21.2(3): Requires that a report be sent to IPERS within seven days following an employee's separation date.
21.4(1)f: Added a paragraph that defines the word "wages" for employees of the general assembly.
21.4(3)a: The annual maximum covered wages for the years after 1990 increases by \$2000 until the covered wage reaches \$5,000.
21.5(1)a(1): This subparagraph lists those elected officials who may choose to be covered by IPERS only by making individual application for coverage.
21.5(1)a(6): This subparagraph lists those police officers and firefighters who may be excluded from IPERS coverage.
21.5(1)a(9): This subparagraph lists those mayors who may elect IPERS coverage.
21.5(1)a(30): Rescinded.
21.5(1)a(31), (32), & (33): Renumbered subparagraphs (31), (32), & (33).
21.5(1)a(33): New subparagraph that excludes state Board of Regents employees who elect retirement coverage in a system qualified by the state Board of Regents from IPERS coverage.
21.5(1)a(34): New subparagraph clarifies when a school employee's coverage ends when employed in a dual capacity.
21.5(1)c: Rescinded. Renumbered "d" to "c."
21.6(9)b: Changes the member and employer rates for sheriffs and deputy sheriffs.
21.6(9)c: Changes the member and employer rates for an employee in a "protection occupation."
21.6(9)c(7): Added DOT peace officers to the "protection occupation" group.
21.8(1)a: Allows a separated employee to be paid an immediate refund of their contributions rather than after 30 days.
21.8(2): Rescinded.
21.8(3), (4): Renumbered as 21.8(2) and (3).
21.9(1)a: Provides for an internal review of an appeal prior to forwarding it to the department of Inspections and Appeals.
21.11(3): Covers those employees who are eligible for monthly retirement benefits with no age reduction (a. and d.) and those employees who are eligible for full retirement benefits (b. and c.).
21.11(7): Extends retirement benefits to the month of the member's death rather than the month before.
21.12(1): Defines "public employee" as it pertains to prior service to mean, not only employees who made contributions under IOASI, but members who had service in another state, federal service, or other retirement system(s) in Iowa prior to 7/4/53, if they qualify for "buy-in" program. Sets forth the conditions that must exist in order to receive prior service credit.
Service credit after 7-1-90 may also be credited.
21.12(5) (7): Allows a full quarter of credit for less than a quarter's covered wages. Allows teachers four quarters of credit for three quarters of service if a contract has been signed for the following school year.
21.12(6): Allows prior and current service credit for only those quarters in which covered wages were reported if service is certified by the custodian of record.
21.12(8): Rounds all parts of quarters to full quarters.
21.13(1): Provides an exception to the payment of benefits only after age 55, if the separation is due to a disability.
21.13(2)c: Provides monthly retirement benefits with no age reduction if the members age and years of service equal at least 92.
21.13(6)a: Changed the percentage from 50 to 52 of the three year averaged covered wage when calculating the monthly benefit.
21.13(6)c: Increases the percentage of the three year average covered wage by 2 percent each year until it reaches 60 percent.

21.13(10): Rescinded.
21.14(2): Allows for interest accrual of a deceased member until the month payment is made; except that when there is a dispute moneys will be placed in a non-interest bearing account.
21.14(4): Rescinded.
21.16(2): Provides prior service credits to a member who is reemployed by any public employer following a leave of absence.
21.17(1): Specifies the point at which a member achieves vested status.
21.19(1): Changes the amount a retiree may earn in covered employment and removes this limit on January 1, 1991 if coverage is in an elective office.
21.19(5): Includes a provision for allowing the separation date for school employees to be extended if the employee performs additional duties for the same employer.
21.22(1)c: Added paragraph to allow for an IPERS disability provision if awarded U.S. Railroad Retirement benefits.
21.22(3): Added a subrule that details the age penalty for employees who retire due to a disability prior to age 55.
21.24(1): Added a paragraph that allows for persons who retired after July 1, 1978 to buy back refunded contributions to the TOASI system.
21.24(2): Allows an employee to purchase IPERS credit for any public employment if rights to retirement in that system are waived. Requires that the employee have wages in the year on which contributions were reported. Explains how IPER's credits are calculated for a partial year's wages.
21.24(3) changed the period of service allowed for buy-back of refunds of contributions and removed the 15 year service requirement.
Explains the conditions under which an employee could buy-back previously refunded IPERS prior to January 1, 1991.
21.24(5): Added a subrule that allows area school employees to elect coverage under another retirement system and gives the specifics associated with coverage by an alternative system.
Explains how IPER's credits are calculated for partial years of military service.

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CHAPTER 21
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

(Effective 4/7/93)

581—21.1(97B) Organization. The Iowa public employees' retirement system was created by Iowa Code chapter 97B.

21.1(1) Definitions. Unless otherwise prescribed by federal or state regulations, the terms used in this chapter shall have the following meanings:

"Board" means the investment board of IPERS established in Iowa Code section 97B.8.

"Chief benefits officer" means the person employed by the director to administer the benefits programs of the retirement system.

"Chief investment officer" means the person employed by the director to administer the investment program of the retirement system.

"Department" means the Iowa department of personnel.

"Director" means the director of the Iowa department of personnel.

"IPERS" means the Iowa public employees' retirement system.

21.1(2) Administration. The director, through the chief investment officer and the chief benefits officer, shall administer Iowa Code chapters 97, 97B, and 97C, shall execute contracts on behalf of IPERS, and shall make expenditures, reports, and investigations as necessary to carry out the powers and duties created in Iowa Code chapter 97B, and may obtain as necessary the specialized services of individuals or organizations on a contract-for-services basis.

21.1(3) Location. General correspondence, inquiries, requests for information or assistance, complaints, or petitions shall be addressed to: Iowa Public Employees' Retirement System, 600 East Court Avenue, P.O. Box 9117, Des Moines, Iowa 50306-9117.

21.1(4) Business hours. Business hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

21.1(5) Investment board.

a. The board shall meet annually, and may meet more often, to review its investment policies. Future meeting dates shall be set by members of the board at the end of each meeting.

b. At the first meeting in each fiscal year, the voting members shall elect a chair and vice-chair.

c. The principal place of business of the investment board is located at 600 East Court Avenue, Des Moines, Iowa.

d. Advance notice of time, date, tentative agenda, and place of each meeting shall be given in compliance with Iowa Code chapter 21.

e. Parties wishing to present items for the board's agenda for its next meeting shall file a written request with IPERS at least five workdays prior to the meeting. The board may take up matters not included on its agenda.

f. Quorum. Six members eligible to vote shall constitute a quorum. A simple majority vote of the members present shall be the vote of the board.

g. In the event that it should become necessary to fill the chief investment officer position, the board may consult with, and make hiring recommendations to, the director.

581—21.2(97B) Records to be kept by the employer.

21.2(1) Definition. Each employing unit shall maintain records to show the information hereinafter indicated. Records shall be kept in the form and manner prescribed by IPERS. Records shall be open to inspection and may be copied by IPERS and its authorized representatives at any reasonable time.

21.2(2) Records shall show with respect to each employee: the employee's name, address and social security account number; each date the employee was paid wages or other wage equivalent (room, board, etc.); the total amount of wages paid on each date including non-cash wage equivalents; the total amount of wages including wage equivalents on which IPERS

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g. Name and address of absorbed employing unit if applicable.

21.3(4) *Reports of dissolved or absorbed employers.* An employing unit that has been dissolved or entirely absorbed by another employing unit is required to file a quarterly or monthly report with IPERS through the last date on which it legally existed. Any wages paid after the legal date of dissolution are reported under the account number assigned to the new or successor employing unit, if any.

21.3(5) *IPERS account number.* Each reporting unit is assigned an IPERS account number. This number should be used on all correspondence and reporting forms directed to IPERS.

This rule is intended to implement Iowa Code sections 97B.5, 97B.9 to 97B.12, 97B.15 and 97B.41(8) "a."

581—21.4(97B) *Definition of wages for employment during the calendar quarter—other definitions.* Unless the context otherwise requires, terms used in these rules, regulations, interpretations, forms and other official pronouncements issued by IPERS shall have the following meaning:

21.4(1) "Wages" means all compensation earned by employees, including vacation pay; sick pay; bonus payments; dismissal pay; amounts deducted from employee's pay at the employee's discretion for tax-sheltered annuities, dependent care and cafeteria plans; and the cash value of wage equivalents.

a. *Vacation pay.* The amount paid an employee during a period of vacation.

b. *Sick pay.* Payments made for sick leave which are a continuation of salary payments.

c. *Special lump sum payments.* Wages do not include special lump sum payments made during or at the end of service as a payoff of unused accrued sick leave or of unused accrued vacation. Wages do not include special lump sum payments made during or at the end of service as an incentive to retire early or as payments made upon dismissal, severance, or a special bonus payment.

d. Rescinded, IAB 7/27/88, effective 7/1/88.

e. *Wage equivalents.* Items such as food, lodging and travel pay which are includable as employee income, if they are paid as compensation for employment. The basic test is whether or not such wage equivalent was given for the convenience of the employee or employing unit. Wage equivalents are not taxable under IPERS if given for the convenience of the employing unit. Wages paid in any other form than money are measured by the fair market value of the meals, lodging, travel or other wage equivalents.

f. *Members of the general assembly.* Wages for a member of the general assembly means the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary. Wages include per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. Wages do not include expense payments except that, effective July 1, 1990, wages include daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly shall not exceed the maximum established by law for members from Polk County.

21.4(2) Wages are taxable in the quarter in which they are actually paid to the employee.

21.4(3) One quarter of service will be credited for each quarter in which a member is paid covered wages.

a. "Covered wages" means wages of a member during periods of service that do not exceed the annual covered wage maximum. Effective January 1, 1993, the annual covered wage is \$35,000 for calendar year 1993.

Each January 1 thereafter the annual covered wage maximum is scheduled to increase an additional \$3,000 until an eventual maximum of \$55,000 is reached, provided that these increases can be borne by the IPERS trust fund within the existing contribution rates as defined in Iowa



Code sections 97B.11 and 97B.49. Prior covered wage ceilings include:

- \$20,000, effective January 1, 1976
- \$21,000, effective January 1, 1984
- \$22,000, effective January 1, 1986
- \$23,000, effective January 1, 1987
- \$24,000, effective January 1, 1988
- \$26,000, effective January 1, 1989
- \$28,000, effective January 1, 1990
- \$31,000, effective January 1, 1991
- \$34,000, effective January 1, 1992

b. Effective January 1, 1988, covered wages shall include wages paid a member regardless of age. (From July 1, 1978, until January 1, 1988, covered wages did not include wages paid a member on or after the first day of the month in which the member reached the age of 70.)

c. If a member is employed by more than one employer during the calendar year, the total amount of wages paid shall be included in determining the annual covered wage maximum. If the amount of wages paid to a member by several employers during a calendar year exceeds the covered wage limit, the amount of the excess shall not be subject to contributions required by Iowa Code section 97B.11. See subrule 21.8(1), paragraph "h."

This rule is intended to implement Iowa Code section 97B.41(20).

581—21.5(97B) Identification of employees covered by the IPERS retirement law.

21.5(1) Definition of employee.

a. A person is in employment as defined by Iowa Code chapter 97B if the person has entered into an employer/employee relationship with a covered employer. An employee is an individual who is subject to control by the agency for whom the individual performs services for wages. The term control refers only to employment and includes control over the way the employee works, where the employee works and the hours the employee works. The control need not be actually exercised for an employer/employee relationship to exist; the right to exercise control is sufficient. A public official may be an "employee" as defined in the agreement between the state of Iowa and the Secretary of Health, Education and Welfare, without the element of direction and control.

Employment as defined in Iowa Code chapter 97B is not synonymous with IPERS membership. Some classes of employees are excluded under Iowa Code section 97B.41(8) "b" from membership by their nature. The following subtitles are designed to clarify the status of certain employee positions.

(1) Effective January 1, 1979, members of the Iowa general assembly may elect coverage under IPERS. Effective July 1, 1990, elected officials in positions for which the compensation is on a fee basis, elected officials of school districts, elected officials of townships, and elected officials of other political subdivisions who are in part-time positions are not covered by IPERS unless the elected official makes application to IPERS under this chapter. An elected official who makes application to IPERS to be covered under this chapter may later terminate membership by informing IPERS in writing of the member's termination of office.

(2) County and municipal court bailiffs who receive compensation for duties are included. (3) City attorneys are included. (4) Judicial magistrates are not included unless they elect IPERS coverage. Having made a choice to elect IPERS coverage, a judicial magistrate may not revoke that election and discontinue such coverage.

(5) Office and clerical staff of a county medical examiner's office are included, but county medical examiners and deputy county medical examiners are excluded. (6) Police officers and paid fire fighters in towns of less than 8,000 population are included, as are the traffic control officers, unless covered under terms of Iowa Code chapter 411.

Police officers and fire fighters in towns over 8,000 population may be excluded. In accordance with Iowa Code section 411.3, police chiefs and fire chiefs who are exempt from coverage under chapter 411 are exempt from coverage under IPERS. Effective July 1, 1990, a city whose population was under 8,000 prior to the results of the federal census conducted in 1990 is not required to participate in the police and fire retirement systems established in Iowa Code chapter 411 and may, therefore, elect to retain coverage under IPERS. In accordance with Iowa Code section 80D.14, reserve peace officers employed under Iowa Code chapter 80D are excluded from coverage.

(7) County social welfare employees are included.

(8) Members of county soldiers relief commissions and their administrative or clerical employees are included.

(9) Part-time elected mayors, mayors of townships, and mayors that are paid on a fee basis are not covered under IPERS unless they elect coverage. All other mayors, including appointed mayors and full-time elected mayors, whether elected by popular vote or by some other means, are covered.

(10) Field assessors are included.

(11) Members of county boards of supervisors who receive an annual salary are included; but effective July 1, 1992, members of county boards of supervisors paid on a per diem basis are excluded unless they file an application for coverage.

(12) Temporary employees of the general assembly who are employed for less than six months in a calendar year or work less than 1,040 hours in a calendar year are excluded from IPERS, unless the employee elects coverage. If coverage is elected, the member may not terminate coverage until termination of covered employment.

(13) Persons hired for temporary employment are excluded from IPERS' coverage providing that they have not established an ongoing relationship with an IPERS' covered employer. Effective January 1, 1993, an ongoing relationship with an IPERS' covered employer is established when the employee is paid covered wages of \$300 or more per quarter in two consecutive quarters, or if the employee is employed by a covered employer for 1,040 or more hours in a calendar year. Coverage will begin when the permanency of the relationship is established, and shall continue until the employee's relationship with the covered employer is severed. Contributions shall be paid, and service credit accrued, when wages are paid in the quarter after the ongoing relationship has been established.

(14) Drainage district employees who have vested rights to IPERS through earlier participation or employees of drainage districts who elect IPERS coverage by submitting a formal application are included.

(15) A county attorney is included as an employee whether or not employed on a full- or part-time basis.

(16) Tax study committee employees are included.

(17) Rescinded IAB 7/22/92, effective 7/2/92.

(18) School bus drivers who are considered to be public employees are included. School bus drivers who are independent contractors are excluded. A determination must be made by IPERS on the facts presented on a case-by-case basis.

(19) Persons who are enrolled as students and whose primary occupations are as students are not covered. Full-time and part-time students who are employed by the institutions where they are enrolled as students are not covered. Full-time and part-time students who are employed full-time by a covered employer other than the institution where they are enrolled are covered. Part-time students who are employed part-time by a covered employer other than the institution in which they are enrolled are covered. Full-time and part-time student status is defined by the individual educational institutions. Full-time and part-time employment status is as defined by the individual employers.

(20) Foreign exchange teachers and visitors including alien scholars, trainees, professors, teachers, research assistants and specialists in their field of specialized knowledge or skill are all excluded from coverage.

(21) Members of any other retirement system in Iowa maintained in whole or part by public funds are excluded.

(22) Members who are contributing to the federal civil service retirement system or federal employees retirement system are excluded.

(23) Employees of credit unions without capital stock organized and operated for mutual purposes without profit are excluded.

(24) Members of the ministry, rabbinic or other religious order who perform full- or part-time religious service for a covered employer are included; but members of the ministry, rabbinic or other religious order who have taken the vow of poverty are excluded, unless within one year of commencing employment or no later than July 1, 1985, for individuals who are members of the system on July 1, 1984, a member makes an application to IPERS to be covered under this chapter.

(25) Any physician, surgeon, dentist or member of other professional groups employed full-time by a covered employer is included; but any member of a professional group who performs part-time service for any public agency but whose private practice provides the major source of income is excluded, except for city attorneys and health officials.

(26) Interns and resident doctors in the employ of a state or local hospital, school or institution are excluded.

(27) Professional personnel who acquire the status of an officer of the state of Iowa or a political subdivision thereof, even though they engage in private practice and render government service only on a part-time basis, are included.

(28) Volunteer fire fighters and special police officers are included when paid wages intended as compensation for work performed; they are excluded if wages are nominal and intended as reimbursement for expenses incurred in the performance of volunteer service. Reserve peace officers hired pursuant to Iowa Code chapter 80D are excluded.

(29) Residents or inmates of county homes are excluded.

(30) Members of the state transportation commission, the board of parole, and the state health facilities council are excluded unless they elect coverage by filing applications with IPERS to be covered.

(31) Employees of an interstate agency established under Iowa Code chapter 28E, and similar enabling legislation in an adjoining state if the city had made contributions to the system for employees performing functions which are transferred to the interstate agency shall be considered employees of the city for the sole purpose of membership in IPERS, although the employer contributions for those employees are made by the interstate agency.

(32) Persons employed as city managers, or as city administrators performing the duties of city managers, under a form of city government listed in Iowa Code chapter 372 or 420 are excluded unless employees make application to IPERS to be covered under the provisions of this chapter.

(33) Employees appointed by the state board of regents who, at the discretion of the state board of regents, elect coverage in a retirement system qualified by the state board of regents are excluded from IPERS coverage.

(34) School employees who work in additional positions along with normal duties with the same employer will be considered employees until all of their compensated duties to their employer cease. (Examples include teacher/coach; teacher/summer driver's education instructor; Phase I, II, and III employment.)

(35) "Adjunct instructors" employed by a community college are excluded from coverage. Adjunct instructors are persons employed by a community college or university without a continuing contract and whose teaching load does not exceed one-half time for two full semesters or three full quarters for the calendar year.

(36) Effective July 1, 1992, enrollees of a senior community service employment program authorized by Title V of the Older Americans Act and funded by the United States Department of Labor are not covered unless: (a) both the enrollee and the covered employer elect coverage; or (b) the enrollee works for a covered employer for more than eight consecutive quarters; or (c) the enrollee is currently contributing to IPERS. A covered employer is defined as the host agency where the enrollee is placed for training.

b. Each employer shall ascertain the federal social security account number of each employee subject to IPERS.

c. Employees who are allowed by law or rule to elect coverage may exercise this option within one year of commencing permanent covered employment. Such elections become effective when approved by IPERS and shall not be applied retroactively. This subrule shall not apply to members of the general assembly.

21.5(2) The employer shall report the employee's federal social security account number in making any report required by IPERS with respect to the employee.

21.5(3) to 21.5(6) Rescinded IAB 7/22/92, effective 7/2/92.

581—21.6(97B) Wage reports and contributions by employers.

21.6(1) Any public employing unit whose combined employer/employee IPERS contribution tax equals or exceeds \$100 per month is required to pay the tax on a monthly basis. All other employing units are required to file wage reports and pay the contribution tax on a quarterly basis. An employing unit who meets the monthly requirement but does not now pay the contribution tax on a monthly basis should contact IPERS by letter or telephone. When notified, IPERS will send to the reporting official a supply of IPERS Form 581, monthly remittance forms.

21.6(2) Each quarterly or monthly wage report must include all employees who earned taxable wages or wage equivalents under IPERS. Individuals who did not earn a taxable wage should not be listed.

21.6(3) All checks received in payment of the employer/employee contribution tax shall be made payable to the Iowa Public Employees' Retirement System and mailed, along with the completed wage report form, to IPERS, 600 East Court Avenue, P.O. Box 9117, Des Moines, Iowa 50306-9117.

21.6(4) For employers filing quarterly wage remittance forms, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the calendar quarter in which the wages were paid.

For employers filing monthly wage reports, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the month in which wages were paid.

Any employer filing monthly or quarterly remittance forms for two or more entities shall attach to each remittance form the checks covering the contributions due on that form. The combining of contributions due for payment into one check or multiple checks will not be accepted. Improperly paid contributions are considered as unpaid. Upon the request of the employer, IPERS may grant a waiver of the requirement which prohibits the combining of contributions.

21.6(5) A request for an extension of time to pay a contribution may be granted by IPERS for good cause if presented before the due date, but no extension shall exceed 30 days after the end of the calendar quarter. If an employer who has been granted an extension fails to pay the contribution on or before the end of the extension period, interest shall be charged and paid from the original due date as if no extension had been granted.

21.6(6) When an employer has no taxable wages or no wages to report during the applicable reporting period, the employer's wage report form, IPERS Form 552 or 581, should be marked "no taxable wages" or "no wages" and returned to IPERS. When no employer's

wage report is made, the employing unit's account is considered delinquent for the reporting period until the report is filed.

21.6(7) Substitute forms may be used if they meet all the IPERS reporting requirements and the employing unit receives advance approval from IPERS.

21.6(8) Magnetic tape reporting may be used by an employer after submitting a written request to IPERS. When the request is received, IPERS will send the employer a copy of the specifications for this type of reporting.

21.6(9) Contribution rates. The contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification of the member.

a. All covered members, except those identified in paragraphs "b" and "c" of this subrule.

(1) Member's rate—3.7%.

(2) Employer's rate—5.75%.

b. Sheriffs and deputy sheriffs, effective July 1, 1992.

(1) Member's rate—6.90%.

(2) Employer's rate—10.34%.

c. Members employed in a "protection occupation," effective July 1, 1992.

(1) Member's rate—5.88%.

(2) Employer's rate—8.83%.

1. Conservation peace officers.

2. Marshals or police officers (in a city not covered under Iowa Code chapter 400).

3. Correctional officers as provided for in Iowa Code section 97B.49, subsection 16, paragraph "d," subparagraph (3).

For the purposes of this subrule, a correctional officer position shall be defined as any permanent, merit system covered position of the Iowa department of corrections whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety, and security within a correctional facility. Incumbents of those positions shall be eligible for "protection occupation" coverage only while in an eligible position that meets the definition.

Employees who, prior to December 22, 1989, were in a "correctional officer" position but whose position is found to no longer meet this definition on or after that date, shall retain coverage, but only for as long as the employee is in that position or another "correctional officer" position that meets this definition. Movement to a position that does not meet this definition shall cancel "protection occupation" coverage.

4. Airport fire fighters, employed by the military division of the department of public defense.

5. Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city of 100,000 population or more.

6. Arson investigators who commenced employment as an arson investigator for the department of public safety on or after July 1, 1988.

7. Effective July 1, 1990, an employee of the state department of transportation who is designated as a "peace officer" by resolution under Iowa Code section 321.477.

8. Effective July 1, 1992, a fire prevention inspector peace officer employed by the department of public safety.

21.6(10) Effective July 1, 1992, credit memos that have been issued due to an employer's overpayment are void one year after issuance.

This rule is intended to implement Iowa Code sections 97B.11, 97B.14, and 97B.49, subsections 7, 8, 10, and 16.

581—21.7(97B) Accrual of interest. Interest as provided under Iowa Code section 97B.9 shall accrue on any contributions not received by IPERS by the due date, except that interest may be waived by IPERS upon request prior to the due date by the employing unit, if due to circumstances beyond the control of the employing unit.

This rule is intended to implement Iowa Code section 97B.9.

581-21.8(97B) Refunds.

21.8(1) Termination of employment and refund of contributions. a. Any member is eligible for a refund of the member's accumulated contributions upon termination of IPERS covered public employment. The employee's "termination date" is the last date on which the employee was paid and certified by the employer on the bottom of the IPERS refund claim. The applicant's signature must be notarized. Upon receiving the member's application for refund, IPERS shall pay to the terminated member the amount of the member's accumulated contributions currently reported to, and processed by, IPERS as of the date of the refund. Upon receipt of the final contributions from the member's employer, a supplemental refund will be paid to the terminated member. Terminated members must keep IPERS advised in writing of any change in their address so that refunds may be delivered.

b. To obtain a refund a member must file a claim on IPERS Form 56, refund claim form, available at IPERS or the member's employer.

c. IPERS may issue an emergency refund to a member who has terminated covered employment and meets the refund eligibility requirements of Iowa Code section 97B.53, if:

(1) The member files an application for refund on a form provided by IPERS;

(2) The member alleges in writing that the member is encountering a financial hardship or unforeseeable emergency; and

(3) The member provides IPERS with payment instructions either in person or in writing.

d. Financial hardship or unforeseeable emergency includes:

(1) Severe financial hardship to a member resulting from a sudden and unexpected illness or accident of the member or a member's dependent;

(2) Loss of a member's property due to casualty; or

(3) Other similar extraordinary and unforeseeable circumstances which arise as a result of events beyond a member's control.

e. An emergency refund will not be issued by IPERS until the member makes payment in full of an "emergency refund processing fee" by a guaranteed financial instrument, such as a cashier's or certified check. Personal checks and cash are not accepted. This fee is to reflect the actual costs to IPERS associated with processing the refund on an emergency basis, including staff time and cost of materials. IPERS shall develop a policy to set fees for processing in accordance with Iowa Code section 97B.38.

f. Unless otherwise specified by the member, the refund warrant will be mailed to the member at the address listed on the application for refund. If a member so desires, the warrant may be delivered to the member or the member's agent at IPERS' principal office, which is located at 600 East Court Avenue, Des Moines, Iowa. The member must show verification of identification by presenting a picture identification containing both name and social security number. If a member designates in writing an agent to pick up the warrant, the agent must present to IPERS the written designation and a picture identification.

g. Employers who erroneously report wages for employees that are not covered under IPERS may secure a refund by filing refund claim IPERS Form 58, available on request from IPERS. A warrant will be issued to the employer for both the employee's and employer's share of any erroneous payment, unless the employer has already filed an application for refund. The employer is responsible for returning the employee's share. Under no circumstances can the employer take credit on a future wage report for an erroneous or excess payment on a previous report.

h. IPERS shall automatically issue to employees a refund of excess contributions paid when employees pay contributions on wages exceeding the calendar year wage maximums. IPERS shall determine how to distribute the employer's share in accordance with the following:

(1) Where a member has a primary employer and a secondary employer and as a result pays contributions on wages in excess of the annual covered wage maximum, the secondary employer shall be entitled to a refund of contributions paid on behalf of a member not in excess of the amount of an employer's contributions.

(2) Where a member has simultaneous employment with two or more primary employers and as a result pays contributions on wages in excess of the annual covered wage maximum,

num, each employer shall be entitled to a refund made in proportion to the amount of con-

tributions paid by an employer.

21.8(2) If an employee hired for permanent employment resigns within six months of the date of employment, the employer may file a claim for a refund of employer/employee contributions. It is the responsibility of the employer to return the employee's share.

21.8(3) Refund of contributions—after reemployment. A retired member who returns to permanent covered employment, but who resigns within six months of the date the reemployment began, is eligible to have the contributions for this period refunded. The contributions made by the employer will also be refunded. Upon the determination of IPERS that the reemployment cannot be included in a recomputation of the retired member's benefits, IPERS will initiate action to refund the employee's and the employer's contributions.

21.8(4) Refunds of any kind shall not be issued if the amount due is less than one dollar. This rule is intended to implement Iowa Code sections 97B.10, 97B.46 and 97B.53.

581—21.9(7B) Appeals.

21.9(1) Procedures.

a. A party who wishes to appeal a decision by IPERS shall, within 30 days after notification was mailed to the party's last known address, file with IPERS a notice of appeal in writing setting forth:

(1) The name, address, and social security number of the applicant;

(2) A reference to the decision from which the appeal is being made;

(3) The fact that an appeal from the decision is being made; and

(4) The grounds upon which the appeal is based.

Upon receipt of the appeal, IPERS shall conduct an internal review of the facts and circumstances involved, in accordance with its appeal review procedure. IPERS shall issue a final agency decision which becomes final unless within 30 days of issuance the member files a notice of further appeal. Upon receipt of notification of further appeal, IPERS shall inform the department of inspections and appeals of the filing of the appeal and of relevant information pertaining to the case in question. The department of inspections and appeals shall hold a hearing on the case and shall affirm, modify, or reverse the decision by IPERS.

b. Rescinded IAB 7/22/92, effective 7/2/92.

21.9(2) *The determination of appeals.* Following the conclusion of a hearing of an appeal, the administrative law judge within the department of inspections and appeals shall announce the findings of fact. The decision shall be in writing, signed by the administrative law judge, and filed with IPERS, with a copy mailed to the applicant. Such decision shall be deemed final unless, within 30 days after the issuance of such decision, further appeal is initiated.

21.9(3) *Appeal board.* A party appealing from a decision of an administrative law judge shall file a notice with the employment appeal board of the Iowa department of inspections and appeals, petitioning the appeal board for review of the administrative law judge's decision. 21.9(4) *Judicial review.* The appeal board's decision shall be final and without further review 30 days after the decision is mailed to all interested parties of record unless within 20 days a petition for rehearing is filed with the appeal board or within 30 days of a petition for judicial review is filed in the appropriate district court.

This rule is intended to implement Iowa Code section 97B.16.

581—21.10(7B) Beneficiaries.

21.10(1) Designation of beneficiaries. To designate a beneficiary, the member must complete a designation of beneficiary form as prescribed by IPERS, which must be filed with IPERS. The designation of a beneficiary by a retiring member on the application for monthly benefits is accepted by IPERS in lieu of a completed designation form. IPERS may consider as valid

a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to IPERS prior to the member's death.

21.10(2) Change of beneficiary. The beneficiary may be changed by the member by filing a new designation of beneficiary form with IPERS. The latest dated designation of beneficiary form on file shall determine the identity of the beneficiary. Payment of a refund to a terminated member cancels the designation of beneficiary on file with IPERS.

21.10(3) Payments to a beneficiary. Before death benefit payments can be made, application in writing must be submitted to IPERS with a copy of the member's death certificate, together with information establishing the claimant's right to payment. A named beneficiary must complete IPERS Form 504, application for refund, based on the deceased member's account.

21.10(4) Where the designated beneficiary is an estate, trust, church, charity or other like organization, payment of benefits shall be made in a lump sum only.

21.10(5) Where the monthly benefit option chosen by the member pursuant to Iowa Code section 97B.51 conflicts with the payment form specified on the designation of beneficiary form, the choice of the monthly benefit option shall control.

21.10(6) Where multiple beneficiaries have been designated by the member, payment shall be made in a lump sum only. The lump sum payment shall be paid to the multiple beneficiaries in equal shares unless a different proportion is stipulated.

21.10(7) Payment of the death benefit when no designation of beneficiary is on file with IPERS shall be made in one of the following ways:
a. Where the estate is open, payment shall be made to the administrator or executor.
b. Where there is a will and the estate is closed prior to the filing with IPERS of an application for death benefits, payment will be made to the executor or administrator as agent for the estate. The following documents shall be presented as supporting evidence:
(1) Copy of the will;
(2) Copy of any letters of appointment; and
(3) Copy of the court order closing the estate and discharging the executor or administrator.

c. Where no estate is probated, payment will be made to the surviving spouse, if any. If there is no surviving spouse, payment will be made to the heirs-at-law as determined by the intestacy laws of the state of Iowa.

21.10(8) Where the member dies prior to the date the first retirement allowance is issued, the refund of accumulated contributions shall include the accumulated contributions of the member at the date of death plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by 30. The amount payable shall not be less than the amount that would have been payable on the death of the member on June 30, 1984. The calculation of the highest year of covered wages shall use the highest calendar year of covered wages reported to IPERS as of the date of death.

When a member who has filed an application for retirement benefits and has survived the first month of entitlement dies prior to the issuance of the first benefit check, IPERS will pay the higher of the death benefit or the benefit allowed under the retirement option elected, if the delay in the issuance of the check is through no fault of the member.

21.10(9) Waiver of beneficiary rights. A named beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would have been entitled. The waiver of the rights shall occur prior to the receipt of a payment from IPERS to the beneficiary. The waiver of rights shall be binding and will be executed on a form provided by IPERS.

21.10(10) Payment may be made to a conservator if the beneficiary is under the age of 18 and the total dollar amount to be paid by IPERS to a single beneficiary is \$10,000 or more. Payment may be made to a custodian if the total dollar amount to be paid by IPERS to a

single beneficiary is less than \$10,000.
 21.10(11) When a member on benefits returns to covered employment (or remains in covered employment if aged 70 or older), and dies before applying for a recalculation of benefits, the death benefit formula will be applied to the wages and years of service reported after benefits begin.
 This rule is intended to implement Iowa Code sections 97B.34, 97B.41(8), 97B.41(12), 97B.44 and 97B.52.

581-21.11(97B) Application for benefits.

21.11(1) Form used. It is the responsibility of the member to notify IPERS of the intention to retire. This should be done 50 days before the expected retirement date. IPERS Form 502, application for monthly retirement benefits, is obtainable from IPERS, 600 East Court Avenue, P.O. Box 9117, Des Moines, Iowa 50306-9117. The printed application form shall be completed by each member applying for benefits and shall be mailed or brought in person to IPERS. Option choice and date of retirement shall be clearly stated on the application and all questions on the form shall be answered in full. If an optional allowance is chosen by the member in accordance with Iowa Code section 97B.51, the election becomes binding when the first retirement check is issued.

21.11(2) Proofs required in connection with application. Proof of date of birth to be submitted with an application for benefits shall be in the form of a birth certificate or an infant baptismal certificate. If these records do not exist, the applicant shall submit two other documents or records ten or more years old, or certification from the custodians of these records, which will verify the day, month and year of birth. The following records or documents are among those deemed acceptable to IPERS as proof of date of birth:

- a. United States census record;
- b. Military record;
- c. Naturalization record;
- d. A marriage license showing age of applicant in years, months and days on date of issuance;
- e. A life insurance policy;
- f. Records in a school's administrative office;
- g. An official form from the United States Immigration Service, such as the "green card," containing such information;
- h. Valid Iowa driver's license; or
- i. A family Bible record. A photostatic copy will be accepted with certification by a notary that the record appears to be genuine.

21.11(3) Retirement benefits and the age reduction factor.
 a. A member shall be eligible for monthly retirement benefits with no age reduction effective with the first of the month in which the member becomes the age of 65, if otherwise eligible. b. A member shall be eligible for full monthly retirement benefits with no age reduction effective with the first of the month in which the member becomes the age of 62, if the member has 30 full years of service and is otherwise eligible.
 c. Effective July 1, 1988, a member shall be eligible to receive full monthly retirement benefits effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 92, provided that the member is at least the age of 55.
 d. Effective July 1, 1990, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 92, provided that the member is at least the age of 55.

These benefits are computed in accordance with Iowa Code sections 97B.11 and 97B.49. 21.11(4) A member shall be eligible to receive monthly retirement benefits effective with the first day of the month in which the member becomes the age of 70, even though the member continues to be employed.
 21.11(5) A member shall be eligible to receive benefits for early retirement effective with the first of the month in which the member attains the age of 55 or the first of any month

after attaining the age of 55 before the member's normal retirement date, provided the date is after the last day of service.

21.11(6) A member retiring on or after the early retirement or normal retirement date shall submit a written notice to IPERS setting forth the retirement date, provided the date is after the member's last day of service and not before the first day of the sixth calendar month preceding the month in which the notice is filed.

21.11(7) Retirement benefits to a member shall terminate the day on which the member's death occurs. The benefits for the month of the member's death shall be prorated based on the number of days the member lived during that month.

21.11(8) Upon the death of the retired member, IPERS will reconcile the decedent's account to determine if an overpayment was made to the retiree and if a further payment(s) is due to the retired member's named beneficiary, contingent annuitant, heirs-at-law or estate. If an overpayment has been made to the retired member, IPERS will determine if steps should be taken to seek collection of the overpayment from the named beneficiary, contingent annuitant, estate, heirs-at-law, or other interested parties.

The waiver of the necessary steps to effect collection may occur in cases where recovery of the moneys is not probable and where that action is not deemed prudent administration or cost-effective utilization of the funds of the system.

21.11(9) To receive retirement benefits, a member must officially leave employment with an IPERS covered employer, give up all rights as an employee, and complete a period of bona fide retirement. A period of bona fide retirement means four or more consecutive calendar months for which the member qualifies for monthly retirement benefit payments. Effective January 1, 1993, in order to establish a bona fide retirement, a member must remain out of any public employment with an IPERS covered employer for four consecutive months. This includes even those positions which are not currently covered under IPERS as long as the employer is covered under IPERS.

A member will not be considered to have a bona fide retirement if the member is a school or university employee and returns to work with the employer after the normal summer vacation. In other positions, temporary or seasonal interruption of service which does not terminate the period of employment does not constitute a bona fide retirement. Effective July 1, 1990, a school employee will not be considered terminated if, while performing the normal duties, the employee performs for the same employer additional duties which take the employee beyond the expected termination date for the normal duties. Only when all the employee's compensated duties cease for that employer will that employee be considered terminated.

The bona fide retirement period will be waived, however, if the member terminates regular employment, begins benefits, and is then elected to public office which term begins during the normal four month bona fide retirement period. This waiver does not apply if the member was an elected official who was reelected to the same position for another term. This rule is intended to implement Iowa Code sections 97B.5, 97B.15, 97B.49(5), 97B.50(1) and 97B.52(3).

581—21.12(97B) **Service credit.** An employee working in a position for a school district or other institution which operates on a nine-month basis shall be credited with a year of service for each year in which three quarters of coverage are recorded, if the employee returns to covered employment the next operating year. An individual employed on a fiscal- or calendar-year basis shall be credited with a year of service for each year in which four quarters of coverage are recorded.

21.12(1) *Prior service.*

a. A member shall receive prior service credit if the member was a public employee on July 4, 1953, made contributions under the abolished Iowa Old-Age and Survivorship Insurance System (IOASI), has not qualified for IOASI benefits and has made an election in writing prior to October 1, 1953, authorizing IPERS to transfer such member's IOASI balance to the IPERS retirement fund for prior service credit rather than apply for a refund based upon IOASI contributions.

b. Effective July 1, 1990, "public employee" means not only an employee who had made contributions under IOASI, but also includes members who had service as a public employee prior to July 4, 1953, in another state, or for the federal government, or within other retirement systems established in the state of Iowa and who qualify for the buy-in programs referenced in 21.24(2). To receive credit for service in another system, however, the public employee who had not made contributions to IOASI but who wishes to receive prior service credit for public employment elsewhere must meet the following conditions:

- (1) Have been a public employee;
- (2) Waive on a form provided by IPERS all rights to a retirement in another system for that period of employment for the public employer(s), if any; and
- (3) Submit verification of service for that other public employer to IPERS.

A qualifying member who decides to purchase IPERS credit for prior service must make employer and employee contributions to IPERS for each year of service allowed in this buy-in. This contribution shall be equal to the member's covered IPERS wages for the most recent full calendar year of IPERS coverage, using the rates in Iowa Code sections 97B.11 and 97B.49 then applicable, and multiplied by the number of years being purchased from other public employment.

c. Prior to July 1, 1990, public employment must have been for the state of Iowa, or a county, city, township, school district of the state of Iowa, or a political subdivision, provided the employment was not in an elective position, and provided further that the employee is not covered by another retirement plan funded in whole or in part by the state of Iowa or a political subdivision. Effective July 1, 1990, public employment may also include service for a public employer in another state, for the federal government, or for public employment covered by another retirement system within the state of Iowa.

d. For the purposes of this rule, public school teachers are considered to have been in service on July 4, 1953, if they were under contract at the end of the school year 1952-1953 or if they signed a contract for the 1953-1954 school year on or before July 4, 1953.

a. Prior service credit shall be given for a period of vacation or leave of absence authorized by the employer not to exceed 12 months. If a period of vacation or leave of absence exceeds 12 months, prior service credit shall be given for the first 12 months only. However, if a period of vacation or leave of absence was granted for 12 months or less, and renewed for 12 months or less, all periods added together exceed 12 months.

b. Reentry into public employment by an employee on leave of absence can be achieved by the employee by accepting employment with any public employer, provided there is no interruption between the end of the period of the leave of absence and reentry into public employment.

c. The employer must verify the inclusive dates of the period of vacation or leave of absence before prior service can be given.

a. Prior service credit shall be given for the entire period of military service during a war or national emergency, provided the employee was employed by the employer immediately prior to entry into military service and the employee returned to work for the same employer within 12 months after release from service.

b. The employer must verify the inclusive dates of the period of absence from work. A copy of the enlistment and discharge records must also be provided to IPERS to verify enlistment and discharge dates.

21.12(4) *Prior service credit for interruption in service.* Prior service credit shall be given for periods of temporary or seasonal interruption in service where the temporary suspension of service does not terminate the period of employment of the employee. Verification from

the employer is needed stating the dates of employment, periods of interruption and that employment was not terminated during those periods.

21.12(5) Prior service credit for part-time employment.

a. Effective July 1, 1990, if a member had covered wages reported in any quarter or the custodian of the record certifies service in any quarter, a full quarter of credit will be granted. b. A teacher will receive credit for a full year in which three quarters of coverage are reported or three quarters of service are certified by the custodian of the records if the teacher had a contract for the following school year. IPERS may require the submission of a copy of that contract.

c. Prior to July 1, 1990, prior service credit for part-time employment was granted on the basis of actual time worked. A ratio determined either by dividing the actual average time worked per day by the normal full-time day or by some other reasonable method was used to calculate the actual time worked.

21.12(6) Prior service credit for a set period of time.

a. Effective July 1, 1990, prior service credit will be granted for those quarters in which covered wages were reported or if the custodian of the record certifies service.

b. Prior to July 1, 1990, full prior service credit was given for periods of employment which required the employee to be available for as much work as required, even though the employee may not have actually worked full-time. This includes the employment of town clerks, secretaries of school districts, school bus drivers and school lunch employees.

21.12(7) Prior service credit for school year. A public school teacher who worked full-time the entire school year shall be given a full year of prior service credit.

a. Effective July 1, 1990, if a member had covered wages reported in any quarter or the custodian of the record certifies service in any quarter, a full quarter of credit will be granted. A teacher will receive credit for a full year in which three quarters of coverage are reported or three quarters of service are certified by the custodian of the records if the teacher had a contract for the following school year. IPERS may require the submission of a copy of that contract.

b. Prior to July 1, 1990, school employees may have received less than a full year's credit if they had reportable wages in fewer than four quarters.

21.12(8) Proof of prior service.

a. A statement showing the inclusive dates of employment and the position(s) the member held shall be signed by the present custodian of those employment records. IPERS Form 507 or a statement containing similar information may be used for this purpose. This statement does not require notarization.

b. If an employment record is not available for any reason, notarized affidavits of two individuals having knowledge of the employment for which prior service credit is sought shall be submitted. IPERS Form 507-A or an affidavit containing similar information may be used. c. Proof of prior service will be scrutinized to ensure that:

- (1) It refers to covered employment in Iowa;
- (2) It is signed by the proper authority;
- (3) It refers to the member in question;
- (4) The position held is one for which prior service credit can be given;
- (5) Any corrections, deletions, or additions in dates of service are initiated by the signer of the document;

(6) Anything on the reverse side of the form is taken into consideration; and
(7) Certification showing the highest gross wage earned in any 12 consecutive month period before July 4, 1953, refers to a period ending before that date. IOASI records may be used for verification of wages if necessary, and this information is noted on the face of IPERS Form 502, application for monthly retirement allowance.

d. Effective July 1, 1990, prior service will be credited by quarters. Service of less than a full quarter shall be rounded up to a full quarter. (Prior to July 1, 1990, the amount of prior service credit due on each proof of service was computed in years, months and days.)
 e. If the custodian of the records cannot verify service before July 4, 1953, or if the member disputes the amount of time proven, IPERS may use any records available to supplement the member's proof.

21.12(9) *Prior service credit for service before January 1, 1946.* An active, vested or retired member who was employed prior to January 1, 1946, by an employer may file written verification of the member's dates of employment with IPERS and receive credit for years of prior service for the period of employment. However, a member who is eligible for or receiving a pension or annuity from a local school district for service prior to January 1, 1946, is not eligible to receive credit for the period of service upon which the pension or annuity is based. The member is responsible to obtain sufficient proof of service prior to January 1, 1946, as IPERS may require.
 This rule is intended to implement Iowa Code sections 97B.43 and 97B.75.

581—21.13(97B) Calculation of monthly retirement benefits.

21.13(1) If a member has four or more complete years of service credit in IPERS, a monthly payment allowance will be paid beginning with the first full month after the effective date of retirement. This allowance will be paid in accordance with the applicable paragraph of this rule and any option the member may elect pursuant to Iowa Code section 97B.51. If a member has less than four complete years of service credit, the benefit receivable will be computed on a money purchase basis, with reference to annuity tables used by IPERS in accordance with the member's age. Benefits are not payable before the age of 55, except after July 1, 1990, in accordance with an early distribution in the case of retirement due to disability, as described in rule 581—21.22(97B).

21.13(2) Reduction for early retirement.
 a. Effective July 1, 1988, a member's benefit formula will be reduced by one-quarter of one percent for each month the member's retirement precedes the normal retirement date, as defined in Iowa Code section 97B.45. The following are situations in which a member is considered to be taking early retirement:
 (1) If a member is less than 65 years of age in the month of the member's retirement and has less than 30 years of service; or
 (2) If a member is less than 62 years of age in the month of the member's retirement and has 30 years of service.

b. Effective July 1, 1986, a member who is at least the age of 62 and has at least 30 years of service, may retire without application of an early retirement penalty. Effective July 1, 1988, a member who has at least 30 years of service, and whose years of service plus age in the month of the member's retirement equal or exceed 92, may retire without an early retirement penalty.
 c. Effective July 1, 1990, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 92, provided that the member is at least the age of 55.

d. Effective July 1, 1991, a member qualifying for early retirement due to disability under Iowa Code section 97B.50 shall not be subject to a reduction in benefits due to age.
 21.13(3) A member's early retirement date shall be the first day of the month of the fifth birthday or any following month before the normal retirement date, provided that date is after the last day of service.
 21.13(4) Members employed before January 1, 1976, and retiring after January 1, 1976, with four or more complete years of membership service shall be eligible to receive the larger of a monthly formula benefit equal to the member's total covered wages multiplied by

one-twelfth of one and fifty-seven hundredths percent, multiplied by the percentage calculated in subrule 21.13(2), if applicable, or a benefit as calculated in subrule 21.13(6). See Iowa Code section 97B.49(1).

21.13(5) Members employed before January 1, 1976, who qualified for prior service credit shall be eligible to receive a monthly formula benefit of eight-tenths of one percent multiplied by each year of prior service multiplied by the monthly rate of the member's total remuneration during the 12 consecutive months of prior service for which the total remuneration was the highest, disregarding any monthly rate amount in excess of \$250, plus three-tenths of one percent of the monthly rate amount not in excess of \$250 for each year in which accrued liability for benefit payments created by the abolished system is funded.

a. For each active member retiring on or after July 1, 1982, with four or more complete years of service, the monthly benefit will be equal to one-twelfth of an amount equal to 50 percent of the five-year average covered wage multiplied by a fraction of years of service. For each active member retiring on or after July 1, 1986, with four or more complete years of service, the monthly benefit will be equal to one-twelfth of an amount equal to 50 percent of the three-year average covered wage multiplied by a fraction of years of service not to exceed one.

For each active or inactive vested member retiring on or after July 1, 1990, with four or more complete years of service, the monthly benefit will be equal to one-twelfth of an amount equal to 52 percent of the highest three-year average covered wage multiplied by a fraction of years of service not to exceed one.

b. For an inactive vested member, the monthly retirement allowance shall be determined on the basis of the formula in effect on the date of the member's retirement. If early retirement, the benefit shall be adjusted as provided in subrule 21.13(2).
c. Commencing July 1, 1991, IPERS shall increase the percentage multiplier of the high three-year average covered wage by an additional 2 percent each July 1 until reaching 60 percent, contingent upon the trust fund's ability to absorb these increases within existing contribution rates as defined in Iowa Code sections 97B.11 and 97B.49.

d. In keeping with the mandates specified by Iowa Code sections 97B.49(5) "b" and 97B.49(16) "a"(3), the following are the increases in the benefit formula put into effect by IPERS:

- Effective July 1, 1991 — 54%
- Effective July 1, 1992 — 56%
- Effective July 1, 1993 — 57.4%

a. "Five-year average covered wage" means a member's covered wage averaged for the highest five years of the member's service. If the member has less than five years of service, the average shall be computed using the actual number of years as a member. The highest five years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, IPERS may determine the wages for the fifth year by combining the wages from the highest quarter or quarters not being used in the selection of the four highest years with the final quarter or quarters of the member's service to create a full year. If the five-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the five-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service. Effective July 1, 1986, the five-year average covered wage is replaced by the three-year average covered wage.

b. "Three-year average covered wage" means a member's covered wages averaged for the highest three years of the member's service. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a

year of employment does not occur at the end of a calendar year, IPERS may determine the wages for the third year by combining the wages from the highest quarter or quarters not being used in the selection of the three highest years with the final quarter or quarters of the member's service to create a full year. The computed year wages shall not exceed the maximum covered wage in effect for that calendar year.

21.13(8) Initial benefit determination.
a. The initial monthly benefit for the retiree will be calculated utilizing the highest three calendar years of wages that have been reported as of the member's retirement. When the final quarter(s) of wages is reported for the retired member, a recalculation of benefits will be performed by IPERS to determine if the "computed year" as described in Iowa Code section 97B.41, subsection 16, is to be used in lieu of the lowest of the three calendar years initially selected. If the final reported quarter(s) wages create a full calendar year, it will be compared to the high three calendar years previously selected to determine if it should be included in the benefit calculation. In cases where the recalculation determines that the benefit will be changed, the adjustment in benefits will be made retroactive to the first month of entitlement. The wages for the "computed year" shall not exceed the highest covered wage ceiling in effect during the member's period of employment.
b. In cases where the member's final quarter's wages have been reported to IPERS prior to retirement, the original benefit will be calculated utilizing all available wages.
c. Effective July 1, 1992, in cases where the member's final quarter of wages reduces the three-year average covered wage, the wages for that quarter will not be used. The member will receive credit for the quarter of service. However, if the final quarter is the first quarter of a calendar year those wages must be used in order to give the member a computed year. This subtitle applies to members who commence receiving benefits on or after July 1, 1992, regardless of when the member's last quarter of wages was reported.

21.13(9) Rescinded, effective March 6, 1985.
21.13(10) Rescinded, IAB 7/25/90, effective 7/1/90.
This rule is intended to implement Iowa Code sections 97B.41(16), 97B.47, 97B.49, 97B.50 and 97B.51.

581-21.14(7B) Interest on accumulated contributions.

21.14(1) The term interest as used in this rule means statutory interest plus the interest dividend. Statutory interest is a credit to the accumulated contributions of active members and inactive vested members at a rate of two percent per annum. The interest dividend is a credit to the accumulated contributions of active members and inactive vested members which equals the excess of the average rate of interest earned on the retirement fund through investment during a calendar year over the statutory interest plus twenty-five hundredths of one percent.

21.14(2) Interest shall be credited from the member's inception date to termination date. If a member is vested upon termination, interest will continue to accrue until the member receives a refund or monthly retirement benefits. If a member is not vested upon termination, interest will cease to accrue on termination of covered employment for as long as the member remains inactive. If the member later becomes vested, interest will begin to accrue prospectively upon vesting. Effective July 1, 1990, in the case of a member's death, interest shall be credited to a member's account until the month in which payment is made, unless IPERS determines that a dispute among alleged heirs exists, in which case the amount shall be placed in a noninterest-bearing account. Interest shall not be credited to a member's account if the wages were reported in error.

21.14(3) Rescinded IAB 7/22/92, effective 7/2/92.
21.14(4) Rescinded, IAB 7/25/90, effective 7/1/90.

This rule is intended to implement Iowa Code sections 97B.52, 97B.53 and 97B.70.

581—21.15(97B) Forgery claims. When a forgery of a warrant issued in payment of an IPERS refund or benefit is alleged, the claimant must complete and sign an affidavit before a notary public that the endorsement is a forgery. A supplementary statement must be attached to the affidavit setting forth the details and circumstances of the alleged forgery.

This rule is intended to implement Iowa Code sections 97B.40, 97B.52 and 97B.53.

581—21.16(97B) Approved leave periods.

21.16(1) A member's service is not deemed interrupted while a member is on military leave or during an approved leave of absence not exceeding 12 months.

21.16(2) Reentry into public employment by an employee on military leave can be achieved if the individual accepts employment with a covered employer. Reemployment may begin any time within 12 months of the individual's discharge from military service. Upon reemployment the member shall retain the service credits earned prior to the military leave period.

This rule is intended to implement Iowa Code sections 97B.41, subsections 8 and 13.

581—21.17(97B) Membership status.

21.17(1) Effective July 1, 1990, a member achieves vested status when the member has served and made contributions in 16 or more quarters of IPERS-covered employment or attains the age of 55. The vested status of a member may also be determined when the member's contribution payments cease. At that time a comparison of the membership date and termination date will be made. If service sufficient to indicate vested status is present, after periods of interruption in service have been taken into consideration, the member shall be considered a vested member. All vested members receive all the rights and benefits of a vested member in IPERS until or unless the member files for a refund of accumulated contributions.

21.17(2) For the purposes of this rule, four quarters of coverage shall constitute a year of membership service for a member employed on a fiscal- or calendar-year basis. A member working for a school district or other institution which operates on a nine-month basis shall be granted a year of membership service for each year in which the member has three or more quarters of coverage, if the employee remains in covered employment for the next operating year. An employee who terminates covered employment and has no wages paid in the third quarter shall not receive service credit for the third quarter. Only one year of membership service credit shall be granted for any 12-month period.

Rescinded IAB 7/22/92, effective 7/2/92.

21.17(4) Effective July 1, 1988, an inactive member who had accumulated, as of the date of the member's last termination of employment, years of membership service equal to or exceeding the years of membership service specified in this subrule for qualifying as a vested member on the date of termination, shall be considered vested.

This rule is intended to implement Iowa Code section 97B.41.

581—21.18(97B) Retirement dates.

21.18(1) Effective through December 31, 1992, the first month of entitlement of a member who qualifies for retirement benefits is the first month following the member's last day of service or last day of leave, with or without pay, whichever is later.

21.18(2) Effective January 1, 1993, the first month of entitlement of an employee who qualifies for retirement benefits shall be the first month after the employee receives the last paycheck, if paid more than one calendar month after termination. If the final paycheck is paid within the month after termination, the first month of entitlement shall be the month following termination.

21.18(3) To be eligible for a monthly retirement benefit, the member must survive through-out the designated first month of entitlement. If the member dies prior to the beginning of the month following the first month of entitlement, the member's application for monthly benefits is canceled and the distribution of the member's account is made pursuant to Iowa Code section 97B.52.

21.18(4) The first month of entitlement of a member qualifying under the rule of 92 (see subrule 21.11(3)) shall be the first of the month when the member's age as of the last birthday and years of service equal 92. The fact that a member's birthday allowing a member to qualify for the rule of 92 is the same month as the first month of entitlement does not affect the retirement date.

This rule is intended to implement Iowa Code sections 97B.45, 97B.47 and 97B.48, subsections 1 and 2.

581—21.19(7B) Wage-earning disqualifications for retired members.

21.19(1) Monthly benefit payments for retired members under the age of 65 shall cease in the month the member earns an amount in covered employment sufficient to increase the member's calendar year earnings equal to or greater than an amount determined by law. Effective January 1, 1992, this amount is \$7,440. From January 1, 1988, to January 1, 1990, the amount was \$6,120. From January 1, 1990, until January 1, 1992, the amount was \$6,840. Amounts earned outside of covered employment are disregarded for the purpose of this rule.

Effective January 1, 1991, this earnings limitation does not apply to covered employment in an elective office.

21.19(2) Monthly benefit payments shall resume the month in which a member, previously disqualified pursuant to subrule 21.19(1), terminates covered reemployment.

21.19(3) Monthly benefit payments to the member shall resume in January regardless of the member's covered earnings in any previous calendar year, unless the member is disqualified pursuant to subrule 21.19(1).

21.19(4) A member over the age of 65 who has completed at least four full calendar months of bona fide retirement and is later reemployed in covered employment shall not be subject to any wage earning disqualification.

21.19(5) Rescinded IAB 7/22/92, effective 7/2/92.

21.19(6) A member who is reemployed in covered employment after retirement may, after again retiring from employment, request a recomputation of benefits. The member's retirement benefit shall be increased if possible by the addition of a second annuity, which is based on years of reemployment service, reemployment covered wages and the benefit formula in place at the time of the recomputation. A maximum of 30 years of service is creditable to an individual retiree. If a member's combined years of service exceed 30, a member's initial annuity may be reduced by a fraction of the years in excess of 30 divided by 30. The second retirement benefit will be treated as a separate annuity by IPERS. Any contributions that cannot be used in the recomputation of benefits shall be refunded to the employee and the employer. This rule is intended to implement Iowa Code sections 97B.41 and 97B.45 to 97B.50.

581—21.20(97B) Identification of agents.

21.20(1) Recognition of agents. When a claimant before IPERS desires to be represented by an agent in the presentation of a case, the claimant shall designate in writing the name of a representative and the nature of the business the representative is authorized to transact. Such designation on the part of the claimant shall constitute for IPERS sufficient proof of the acceptability of the individual to serve as the claimant's agent. An attorney in good standing may be so designated by the claimant.

21.20(2) Payment to incompetents. When it appears that the interest of a claimant or retiree would be served, IPERS may recognize an agent to represent the individual in the transaction of the affairs with IPERS. Recognition may be obtained through the filing with IPERS of a copy of the guardianship, trusteeship, power of attorney, or conservatorship documents by the individual so designated.

21.20(3) An individual serving in the capacity of an agent establishes an agreement with IPERS to transact all business with IPERS in such a manner that the interests of the retiree or claimant are best served. Payments made to the agent on behalf of the individual will be used for the direct benefit of the retiree or claimant. Failure to adhere to the agreement will cause discontinuance of the agency relationship and may serve as the basis for legal action

by IPERS or the member.

This rule is intended to implement Iowa Code sections 97B.34 and 97B.37.

581—21.21(97B) Verification of retired member's signature. Rescinded IAB 7/22/92, effective 7/2/92.

581—21.22(97B) Disability.

21.22(1) The following standards apply to the establishment of a disability under the provisions of IPERS:

a. The member must inform IPERS at retirement that the retirement is due to an illness, injury or similar condition that prevents the member from continuing in covered employment. The member must also initiate an application for U.S. Social Security disability benefits.

b. To qualify for the IPERS disability provision, the member must be awarded U. S. Social Security benefits due to the disability which existed at the time of termination of employment.

c. Effective July 1, 1990, the member may also qualify for the IPERS disability provision by being awarded, and commencing to receive, disability benefits through the U.S. Railroad Retirement Act, 45 U.S.C. §231 et seq., due to a disability which existed at the time of retirement.

21.22(2) Rescinded IAB 7/22/92, effective 7/2/92.

21.22(3) Rescinded IAB 7/22/92, effective 7/2/92.

581—21.23(97B) Confidentiality of records.

21.23(1) Records established and maintained by IPERS containing personal information are not public records under Iowa Code chapter 22. Records may be released to the member or the beneficiary (if the beneficiary is entitled to funds) or to a person designated by the member or beneficiary in writing. Records may also be released to an executor, administrator or attorney of record for an estate of a deceased member or beneficiary.

21.23(2) Summary information concerning the demographics of the IPERS membership and general statistical information concerning the system and its activities is made available in accordance with Iowa Code section 97B.17.

This rule is intended to implement Iowa Code sections 97B.15 and 97B.17.

581—21.24(97B) Service buy-in/buy-back.

21.24(1) Prior service buy-back.

a. Effective July 1, 1990, a member who was active, vested or retired on or after July 1, 1978, and who made contributions to IOASI between January 1, 1946, and June 30, 1953, and took a refund of those contributions, may buy back the amount of that refund plus interest in order to establish quarters of service covered by the refund. Less than a full quarter of service will be considered equivalent to a full quarter of service. A teacher who has three quarters of service and a contract for the following year will be granted four quarters of service. IPERS may require the submission of a copy of the contract.

b. Prior to July 1, 1990, a member who was active, vested or retired as of July 1, 1978, and who made contributions to IOASI between January 1, 1946, and June 30, 1953, and who took a refund of those contributions, was able to buy back the amount of that refund and establish years of service covered by the refund.

c. A member cannot participate in the prior service buy-back if the member had taken an IPERS refund (contributions made after July 4, 1953) unless the member first participated in the IPERS buy-back in accordance with this rule.

If a member decides to buy back prior service credit, the member must repay the entire refund- ed amount plus the accumulated interest and interest dividends on that amount.

If a member participating in a prior service buy-back had years of public service within Iowa prior to January 1, 1946, those years of service will also be added to the member's account

at no cost, subject to the member's providing verification of public service. **21.24(2) Purchase IPERS credit for service in other public employment.** a. Effective July 1, 1992, a vested or retired member may make application to IPERS for purchasing credit for service rendered to another public employer. In order to be eligible, a member must:

- (1) Have been a public employee in a position comparable to an IPERS covered position at the time the application for buy-in is processed. Effective July 1, 1990, "public employee" includes members who had service as a public employee in another state, or for the federal government, or within other retirement systems established in the state of Iowa;
- (2) Waive on a form provided by IPERS all rights to a retirement in another system for that period of employment sought to be purchased, if any; such a waiver must be accepted by the other retirement system before the member can proceed with a buy-in of that service time into IPERS; and
- (3) Submit verification of service for that other public employer to IPERS.

(4) Rescinded IAB 7/22/92, effective 7/2/92.

b. A qualifying member who decides to purchase IPERS credit must make employer and employee contributions to IPERS for each year of service allowed in this buy-in. This contribution shall be equal to the member's covered IPERS wages for the most recent full calendar year of IPERS coverage, using the rates established in Iowa Code sections 97B.11 and 97B.49 then applicable, and multiplied by the number of years being purchased from other public employment. A member must have at least two quarters of reported wages in any calendar year before a buy-in cost may be calculated. If the wages reported in the last calendar year do not represent four full quarters of service (because of a leave of absence, wages reported for a partial quarter, etc.), IPERS will compute the wages for a full calendar year. The computation is intended to reflect what wages would have been reported for the member in a full calendar year of four quarters. In the case where a member has only a partial year's wages for the most recent full calendar year, IPERS shall compute the equivalent full calendar year by combining the wages from the highest quarter or quarters from the preceding year(s) sufficient to fulfill the full calendar year requirement. If a member has only one quarter of wages reported in the most recent calendar year, but has a prior year with at least two quarters of reported wages, the prior year will be used, with appropriate adjustments for inflation, to compute the cost. If sufficient quarters in the most recent preceding year(s) do not exist, IPERS shall compute the equivalent annual covered wage at the earnings rate for the period of reported service in the most recent full calendar year.

c. If a vested or retired member does not have wages in the most recent calendar year, the cost of the buy-in will be calculated using the member's last calendar year of reported wages, adjusted by an inflation factor based on the Consumer Price Index as published by the United States Department of Labor.

d. Members eligible to complete the buy-in may buy the entire period of service for a public employer or may buy credit in increments of four quarters. The quarters need not be specifically identified to particular calendar quarters. A period of service is defined as follows: (1) if a member was continuously employed by an employer, the entire time is one period of employment, regardless of whether a portion or all of the service was covered by one or more retirement systems; and (2) if a member is continuously employed by multiple employers within a single retirement system, the entire service credited by the other retirement system is a period of employment. A partial year may be purchased only when the entire period of service is purchased. A member with service credit under another public employee retirement system who wishes to transfer only a portion of the service value of the member's public service in another public system to IPERS, must provide a waiver of that service time to IPERS together with proof that the other public system has accepted this waiver and allowed partial withdrawal of service credit. Members are allowed to purchase time credited by the other public employer

as a leave of absence in the same manner as other service credit. Members wishing to receive free credit for military service performed while in the employ of a qualifying non-IPERS covered public employer must purchase the entire period of service encompassing the service time for that public employer or in the other retirement system, excluding the military time. Veterans' credit originally purchased in another retirement system may be purchased into IPERS in the same manner as other service credit.

e. Prior to July 1, 1990, in order to qualify, the IPERS member had to have been a member of another state's retirement system, and was not eligible if the member was vested under that other system. If the member did qualify, the member had to contribute the accumulated employer and employee contributions as defined in Iowa Code section 97B.41, subsection 2, for that same period of covered service under IPERS; and an amount equal to the accumulated interest on the employer and employee contributions that would have accrued if the member had been a member of the IPERS system earning the same wages as actually earned under the other system. The interest due was for the period from the date of service of the member in the other public retirement system to the date of payment of the contributions by the member equal to 2 percent plus the interest dividend rate applicable for each year. Partial buy-ins were not allowed prior to July 1, 1992, and the waiver provision in effect since July 1, 1990, did not require the acceptance of that waiver by the other public system until July 1, 1992. The requirement that the member can only buy in time "comparable to an IPERS covered position at the time" was added effective July 1, 1992.

The total amount paid will be added to the member's contribution and the years of service this amount represents will be added to the member's IPERS years of service. Effective January 1, 1993, the purchase will not affect the member's three-year average covered wage. 21.24(3) *IPERS buy-back*. Effective January 1, 1991, an active, vested or retired member who was a member of the system at any time on or after July 4, 1953, and who received a refund of the member's contributions for that period of membership service, may apply in writing to IPERS to buy back the refund and the quarters of service which it represents, provided the member:

a. If active, has at least one quarter's reportable wages on file and has membership service, including that period of membership service for which a refund of contributions was made, sufficient to give the member vested status; and
b. Makes membership contributions which include the total refund paid to the member plus accumulated interest and interest dividends.
Prior to January 1, 1991, in order for a member to buy back previously refunded IPERS credit, the member had to meet the following qualifications:

- (1) The refund of contributions had to represent a period of service between July 1, 1953, and June 30, 1973;
- (2) The member could not have been vested at the time of the refund; and
- (3) The member had to have at least 15 or more years of service, a figure which could include the amount of refunded time the member wished to buy back.

21.24(4) *Prior service credit prior to January 1946*. A member who had service before January of 1946 but no service between January 1, 1946, and June 30, 1953, is eligible to receive credit for that service at no cost, subject to the member's providing verification of that service. If the member was employed after July 4, 1953, and took a refund of contributions, that member must first participate in the membership service buy-back (see subrule 21.24(3)) before receiving credit for service prior to 1946.

A member must submit proof of service in order to qualify.
21.24(5) *Veterans' credit*.
a. Effective July 1, 1992, a vested or retired member, in order to receive service credit under the IPERS system, may elect to make employer and employee contributions to IPERS for a period of active duty service in the armed forces of the United States, in one-year increments, provided that the member:

- (1) Produces verification of active duty service in the armed forces of the United States; and

(2) Is not receiving, or is not eligible to receive, retirement pay from the United States govern-

ment for active duty service in the armed forces including full retirement disability compensa-
tion for this period of service. Disability payments received by the member as compensation
for disability incurred while in service of the armed forces, which are not in lieu of military
retirement compensation, will not disqualify a member from participating in this program.
b. Prior to July 1, 1990, a person had to be an active member of IPERS as of July 1, 1988,
and had to have covered wages during the 1987 calendar year in order to be eligible to apply.
Partial buy-ins of allowable service time were not permitted until July 1, 1990.

c. The member must pay IPERS the combined employee and employer contribution amount
owed on the member's covered wages for the most recent full calendar year at the applicable
rates in effect for that year under Iowa code sections 97B.11 and 97B.49 for each year of the
member's active duty service. A member must have at least two quarters of reported wages
in any calendar year before a buy-in cost may be calculated. If the wages reported in the last
calendar year do not represent four full quarters of service (because of a leave of absence,
wages reported for a partial quarter, etc.), IPERS will compute the wages for a full calendar
year. The computation is intended to reflect what wages would have been reported for the
member in a full calendar year of four quarters). In the case where a member has only a
partial year's wages for the most recent full calendar year, IPERS shall compute the equiva-
lent full calendar year by combining the wages from the highest quarter or quarters from the
preceding year(s) sufficient to fulfill the full calendar year requirement. If a member has only
one quarter of wages reported in the most recent calendar year, but has a prior year with at
least two quarters of reported wages, the prior year will be used, with appropriate adjustments
for inflation, to compute the cost. If sufficient quarters in the most recent preceding year(s)
do not exist, IPERS shall compute the equivalent annual covered wage at the earnings rate
for the period of reported service in the most recent full calendar year.

d. If a vested or retired member does not have wages in the most recent calendar year, the
cost of the buy-in will be calculated using the member's last calendar year of reported wages,
adjusted by an inflation factor based on the Consumer Price Index as published by the United
States Department of Labor. Between July 1, 1990, and July 1, 1992, members who did not
have reported wages in the most recent calendar year were not permitted to purchase their
otherwise eligible service time. Effective January 1, 1993, the purchase will not affect the mem-
ber's high three-year average wage.
e. Members eligible to complete the veterans' buy-in may buy the entire period of service
or may buy credit in increments no greater than one year and no less than one quarter. A
member may purchase less than one year of credit once only. Increments of one year means
one year or multiples thereof (one, two, three, etc.). If the entire period is not purchased,
IPERS will calculate the proportionate cost of this period of service in accordance with this
subrule. Fractional years of active service shall qualify a member for the equivalent quarters
of credited IPERS covered service.

21.24(6) *Legislative members.*
a. Active or vested members.
(1) An active or vested member of the system who was a member of the general assembly
prior to July 1, 1988, may make contributions to the system for all or a portion of the period
of service in the general assembly.
(2) The contributions made by the member shall be equal to the accumulated contributions
as defined in Iowa Code section 97B.41, subsection 2, which would have been made if the
member of the general assembly had been a member of the system during the period of service
in the general assembly.
(3) The member shall submit proof to IPERS of membership in the general assembly for
the period claimed.
(4) Upon determining a member eligible and receiving the appropriate contributions from
the member, IPERS shall credit the member with the period of membership service for which
contributions are made.

b. Former members of the general assembly.

- (1) A former member of the general assembly who has six or more years of service as a member of the general assembly, or who has a total of six or more years of service as a member of the general assembly and as an employee under this chapter, may make contributions to the system for all or a portion of the period of service as a member of the general assembly.
- (2) The contributions made by the former member shall be equal to the accumulated contributions plus the employer contributions that would have been made if the former member had been a member of the system during the period of service elected. The employer contributions shall be equal to the contributions that would have been made by the employer if the former member had been a member of the system during the period of service elected plus the interest on the contributions equal to 2 percent plus the interest dividend rate applicable for each year compounded annually.
- (3) The former member shall submit proof to IPERS of membership in the general assembly for the period claimed.
- (4) When the former member is determined to be eligible and the appropriate contributions are received from the former member, IPERS shall credit the former member with the period of membership service for which contributions are made.

21.24(7) Vocational school (area college) employees may elect coverage under another retirement system.

a. Effective July 1, 1990, a person newly entering employment with an area vocational school or area community college may choose to forego IPERS coverage and elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees. This option is available only to those newly hired persons who are already members of the alternative retirement system. Such an election by a newly employed person is irrevocable.

b. Effective July 1, 1994, and providing that the board of directors of the area vocational school or area community college have approved participation in an alternative retirement system pursuant to Iowa Code section 260C.23, a member employed by an area vocational school or an area community college may elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees.

c. Rescinded IAB 7/22/92, effective 7/2/92.

CHAPTER 22
FEDERAL SOCIAL SECURITY

[Prior to 5/6/87, Employment Security[370], Ch 91
(Effective 6/10/87)]

22.1 Reserved.

581—22.2(97C) Records to be kept by the employer. Each employing unit shall maintain records to show the information hereinafter indicated. Records shall be kept in a form and manner that it will be possible from an inspection to obtain the facts necessary to determine the eligibility of each employee to coverage. Records shall be open to inspection and may be copied by an authorized representative of the Iowa department of personnel at any reasonable time. Records shall be kept for a period of five (5) years after the calendar year in which the remuneration to which they relate was paid, or if not paid was due.

This rule is intended to implement Iowa Code section 97C.18.

581—22.3(97C) Contents of records. Records shall show with respect to each employee:

1. The employee's name, address and social security account number.

2. Each date the employee was paid wages or other wage equivalent (room, board, etc.).

3. The total amount of wages paid on each date including noncash wage equivalent.

4. The total amount of wages including wage equivalent from which social security contributions are payable.

5. The amount withheld from wages or wage equivalent for the employee's share of social security contributions.

This rule is intended to implement Iowa Code section 97C.

581—22.4(97C) Reports.

22.4(1) Each employing unit shall make reports at times the IPERS office may require, and shall comply with the instructions printed upon any report form or in the handbook issued by the IPERS office pertaining to the preparation and return of the report.

22.4(2) Any employing unit, not already reporting to the IPERS office which fulfills the conditions for becoming an employer, shall immediately give notice to the IPERS office. The notice shall set forth the employer's name and address and the name and address of the employing unit, and the reason for the change if other than change of reporting official.

22.4(3) Any employing unit which has a change of name or other identifying information shall give notice in writing. The notice shall set forth the former name and address and the new name and address of the employing unit, and the reason for the change if other than change of reporting official.

22.4(4) Any employing unit which terminates for any reason shall provide the IPERS office with the following:

a. Complete name and address of the dissolved entity.

b. Assigned social security account number.

c. Last date on which wages were paid.

d. Date on which the entity dissolved.

e. Reason for the dissolution.

f. Whether or not the entity expects to pay wages in the future.

g. Name and address of absorbing employing unit if applicable.

This rule is intended to implement Iowa Code section 97C.18.

581—22.5(97C) Definition of wages for employment during the calendar quarter. Unless the context otherwise requires, terms used in rules, regulations, interpretations, forms, and other official pronouncements issued by the IPERS office shall have the following meaning:

22.5(1) Wages mean all compensation earned by employees, including the cash value of wage equivalents such as room, board, etc. Salaries, fees, bonuses and wage equivalents are all wages if they are paid as compensation for employment. Wage equivalents may or may not

be taxable under social security. Wages paid in any form other than money are measured by the fair market value of the room, meals or other wage equivalents.

22.5(2) Wages are taxable in the period in which they are actually paid to the employee.

22.5(3) Effective January 1, 1981, wages will be reported on an annual basis using forms prescribed by the IPERS office. Reports shall show all covered wages paid during the calendar year up to the maximum established by Social Security Administration for that year. Reports are to be filed by the twenty-eighth day of February to be considered timely and free from interest.

This rule is intended to implement Iowa Code section 97C.2.

581—22.6(97C) Identification of workers covered by federal social security law.

22.6(1) Each employer shall obtain the federal social security account number of each worker employed by that employer in employment subject to the Social Security Act.

22.6(2) The employer shall report the worker's federal social security account number in making any report required by the Iowa department of personnel concerning the worker.

22.6(3) If any employer has an employee who does not have an account number, the employer shall request the worker to show a receipt issued by an officer of the Social Security Administration acknowledging that the worker has filed an application for an account number. The receipt shall be retained by the worker. In preparing any report required by the Iowa department of personnel regarding a worker, the employer shall report the date of issue of the receipt, its termination date, the address of the issuing office, and the name and address of the worker exactly as shown on the receipt.

22.6(4) If a worker fails to report to the employer a correct federal social security account number or fails to show the employer a receipt issued by an office of the Social Security Administration acknowledging that an application has been filed for an account number, the employer shall inform the worker that Regulation 106 of the Bureau of Internal Revenue, United States Treasury Department, under the Federal Insurance Contribution Act provides that:

a. Each worker shall report to every employer by whom employed the federal social security account number and name exactly as shown on the account number issued by the Social Security Administration.

b. Each worker who has not obtained an account number shall file an application for a federal social security account number on Form SS-5 of the Treasury Department, Bureau of Internal Revenue. The application shall be filed on or before the seventh day after the date on which the worker first performs employment for wages, except that the application shall be filed on or before the date the worker leaves the employ of the employer if the date precedes the seventh day. Copies of Form SS-5, application for a social security account number may be obtained at the field office of the Social Security Administration nearest the worker's place of employment or the local post office.

c. If, within fourteen (14) days after the date on which the worker first performs employment for wages for the employer, or on the day on which the worker leaves the employ of the employer, whichever is the earlier, the worker does not have a federal social security account number, and has not shown the employer a receipt issued to the worker by an office of the Social Security Administration acknowledging that an application has been filed for an account number, the worker shall furnish the employer a written statement, the worker's full name, present address, date and place of birth, father's full name, mother's full name before marriage, worker's sex, and a statement as to whether the employee had previously filed an application on Form SS-5 and, if so, the date and place of such filing. Furnishing the employer with an executed Form SS-5, or statement in lieu thereof, does not relieve the worker of the obligation to make an application on Form SS-5 as required in subrule 22.6(4).

22.6(5) The employer shall inform the worker, in instances in which the information is pertinent, that in accordance with Regulation 106 of the Bureau of Internal Revenue, United States Treasury Department:

a. Any worker who has lost a federal social security account number card may obtain a duplicate card by applying at the field office of the Social Security Administration nearest the worker's place of employment.

b. Any worker may have an account number changed at any time by applying to a field office of the Social Security Administration and showing good reason for a change. Any worker whose name is changed by marriage or otherwise, or who has stated incorrect information on Form SS-5, should report the change or correction to a field office of the Social Security Administration.

c. Any worker who has more than one (1) social security account number shall report all numbers to the field office of the Social Security Administration nearest the worker's place of employment.

This rule is intended to implement Iowa Code sections 97C.18 and 97C.2.

581-22.7(97C) Contributions by employers.

22.7(1) Contributions shall become due and be payable on a semi-monthly basis as follows:

a. Contributions due on any wages paid to employees during the first fifteen (15) days of each calendar month shall be due on the twentieth day of that calendar month.

b. Contributions due on any wages paid to employees for the period beginning with the sixteenth day of the calendar month and ending with the last day of the calendar month shall be due on the fifth day of the following calendar month.

22.7(2) Upon requests filed with the IPERS office before the due date of any contribution, the IPERS office may, for good cause, grant an extension of time for payment of a contribution and the due date. If an employer who has been granted an extension fails to pay the contribution on or before the end of the period of the extension, interest shall be payable from the original due date as if no extension had been granted.

22.7(3) Any employing unit who pays wages must forward the social security contributions deducted from those wages plus the employer's share of contributions as follows:

a. For any wages paid during the first fifteen (15) days of each calendar month remittance in full is due on or before the twentieth day of that calendar month.

b. For any wages paid during the period beginning with the sixteenth day of the calendar month and ending with the last day of such calendar month, remittance in full is due on or before the fifth day of the following calendar month.

c. Balance of the contributions due for the calendar year must be remitted on or before the final due date for the calendar year or January 5 of the following calendar year.

d. Any employer filing reports for two or more entities shall attach to each deposit form being submitted the checks covering the contributions due on that form. The combining of contributions due for payment into one check or multiple checks will not be accepted. Improperly paid contributions are considered as unpaid. Upon the request of the employer, the department may grant a waiver of the requirements which prohibits the combining of contributions.

This rule is intended to implement Public Law 98-21 and Iowa Code sections 97C.5, 97C.6 and 97C.11.

581-22.8(97C) Accrual of interest. Interest as provided under Iowa Code chapter 97 shall accrue on any contributions not paid by the due date. There shall be assessed a penalty at the same percentage rate charged by the Social Security Administration from the due date until payment is received by IPERS.

This rule is intended to implement Iowa Code section 97C.18.

1. The first part of the document is a letter from the Secretary of the State to the Governor, dated 10th March 1877. It contains a report on the progress of the work done during the year.

2. The second part is a report on the work done during the year, dated 10th March 1877. It contains a detailed account of the work done in each department, and a summary of the results.

3. The third part is a report on the work done during the year, dated 10th March 1877. It contains a detailed account of the work done in each department, and a summary of the results.

4. The fourth part is a report on the work done during the year, dated 10th March 1877. It contains a detailed account of the work done in each department, and a summary of the results.

5. The fifth part is a report on the work done during the year, dated 10th March 1877. It contains a detailed account of the work done in each department, and a summary of the results.

spouse of a marriage solemnized prior to retirement of a deceased member, then the surviving spouse means a surviving spouse of two years or more solemnized subsequent to the retirement of the member.

581-24.18(19A) One year of service. For the purpose of computing service, 11 months of service in any year shall be equivalent to one year of service, however, in no case shall a member receive more than one year of service credit for each 12-month period of service.

581-24.19(19A) Average final compensation—less than five years service. If a member retires before attaining five years of service, the average final compensation shall be the total of the earnable compensation from the date sworn into service divided by the number of months of service.

581-24.20(19A) Abstracts of benefits—report. The secretary shall present to the board at each regular meeting the last two abstracts of benefits with a detailed reconciliation between the two totals.

581-24.21(19A) Investment balance—report. The secretary shall reconcile the cash account as soon as possible after the close of each month, and after deducting \$5,000 shall report the book balance to the investment counselor in the office of the treasurer of state as available to be invested.

581-24.22(19A) Application for benefits. Application for benefits under Iowa Code chapter 97A shall be on forms provided by the secretary.

581-24.23(19A) Receipt of application for benefits. Upon receipt by the secretary of an application for benefits, the retirement allowance shall be computed.

581-24.24(19A) Date of death. In the event of the death of a member, the date of death will be considered to be the last day on the payroll for earned compensation or on pension, and the next day following will be the first day for the spouse's and children's benefit. Accrued vacation payout will be paid in addition to the start of benefits.

581-24.25(19A) Age of spouse. When the spouse of a deceased active member is to receive an annuity payment from the member's contributions, the age of the spouse at the nearest birthday shall govern. The computation shall be the spouse's birth date subtracted from the first date that spouse's benefits begin to accrue.

581-24.26(97A) Withdrawal of contributions. Members who terminate employment may, in lieu of vesting, withdraw their contributions together with interest thereon.

24.26(2) The interest rate shall be the composite rate of return for the fiscal year as reflected in the Investment Performance Analysis, provided by the investment consultants for the system, as specified in the report for the quarter ending June 30 of the fiscal year, adjusted by the administrative expense of the system for the fiscal year. The administrative expense rate shall be calculated by dividing the actual administrative expense for the fiscal year by the fund balance on June 30 of the fiscal year.

24.26(3) Interest shall be credited to the member's accounts annually as of June 30. The interest credited to the member shall be calculated by multiplying the annual interest rate by the member's average balance for the fiscal year, with interest credited for each full month of membership.

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24.26(4) Members withdrawing contributions under this rule shall submit a written request to the secretary.

CHAPTER 25
COMBINED CHARITABLE CAMPAIGN
Effective 7/20/88

581-25.1(79) Policy. These rules define and structure the annual on-site state charitable organization campaign program. The intent of the campaign is to provide an opportunity for state employees to contribute to eligible charitable agencies, to have the option of doing so through the state's payroll deduction process, to ensure accountability of participants with regard to the funds raised, and to minimize workplace disruption and administrative costs by allowing a solicitation campaign at the worksite only once per year. Nothing about this program shall be construed as support or endorsement by the state of Iowa for any individual charitable agency or federation of agencies.

581-25.2(79) Definitions. "Campaign manager" means the individual appointed by the director to oversee the annual one gift campaign.

"Charitable agency" means an agency or federation of agencies that is eligible to receive contributions which may be deducted on the contributor's Iowa individual tax return in accordance with U.S. Internal Revenue Code sections 501(a) and 501(c)3, and which otherwise meets the criteria provided for in rule 581-25.6(79).

"Director" means the director of the department of personnel.

"One gift campaign" means the annual state employee fund raising campaign for charitable agencies which meet the eligibility requirements established in these rules.

"State employees" means any employees subject to a state payroll system, except for employees of the state board of regents for whom rules shall be promulgated by the state board of regents.

581-25.3(79) Basic premises.

25.3(1) Campaign chairs. The governor may annually appoint a campaign chair and cochair who shall coordinate with the campaign manager to plan the campaign activities for that year. The campaign chairs may appoint or request the involvement of persons in local communities to assist in coordinating the campaign.

25.3(2) Solicitation period. The solicitation period shall fall within the period of September 1 through November 30. Pilot campaigns may be conducted prior to this period with the approval of the director, the campaign manager, and the campaign chairs. The length of the campaign is otherwise intended to be no more than eight weeks, although that period may be extended with the approval of the director, the campaign manager, and the campaign chairs.

25.3(3) Workplace solicitation. Individual charitable agencies or federations of agencies may not, on their own motion, solicit state employees at their workplace. Workplace solicitation of employees will occur only during the solicitation period, only in accordance with the procedures contained in this chapter, and only under the direction of the campaign chairs and the campaign manager.

25.3(4) Employee solicitations. Employee solicitations are to be conducted using only methods that encourage voluntary giving. Actions that do not allow free choice or that even create the appearance that employees may not have a free choice to give or not give are prohibited. This should in no way be interpreted as restricting the need for an effective, well-organized education program among employees. All employees will be given the necessary information to make an informed decision. Group meetings for this purpose are encouraged. Employees shall be free to publicize their gifts or keep them confidential. Individual employee contribution records are confidential records in the meaning of Iowa Code section 22.7(11).

25.3(5) Pledge authorization forms. The campaign manager authorized under this chapter shall issue an annual pledge authorization form to all state employees. Pledge authorization forms shall conform to the provisions of department of revenue and finance rule 701-203.13(79).

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25.3(6) *Terminations.* Any employee wishing to terminate their deduction shall be required to give 30 days' advance notice in writing to the appointing authority of the department in which the employee works as required by department of revenue and finance rule 701—203.12(79).

581—25.4(79) *Administration.* The director shall select a campaign manager to organize and manage the campaign. The department of revenue and finance shall serve as the one gift's fiscal agent. It shall be the responsibility of the director and the campaign manager to determine, using the criteria set forth in these rules, which charitable agencies or federations of agencies shall be eligible to participate in the campaign.

25.4(1) *Requests to participate.* Charitable agencies and federations of charitable agencies wishing to participate in the one gift campaign program shall forward three copies of the completed application packet developed by the campaign manager to the director prior to February 1 of each year, unless another date is selected and publicized.

25.4(2) *Notification of agencies.* The campaign manager shall, within 30 calendar days following the closing date for applications, send letters of denial or acceptance on behalf of the director, and include reasons for denial as applicable.

25.4(3) *Request for reconsideration.* A charitable agency which has been denied admission will be allowed ten calendar days following the date of the notice of denial to file a written request for reconsideration with the director. The director shall notify agencies of the final decision within ten calendar days following the date the request was received. The director's decision shall constitute final agency action.

25.4(4) *Distribution of campaign moneys.*

a. An approved pledge authorization form shall be used. Pledge authorization forms shall be developed by the campaign manager and fiscal agent as provided for in department of revenue and finance rule 701—203.6(79). State employees shall be allowed to specifically designate their gifts to agencies or federations of agencies described in the campaign materials, and the pledge authorization form shall be designed to accommodate designations.

b. Gifts not specifically designated shall be distributed to participating agencies or federations of agencies based on the same percentage ratio as the designated dollars distributed. This fact shall be prominently displayed in the campaign materials.

c. The one gift campaign shall charge the actual administrative costs of managing the campaign to each participating charitable agency based on the percentage of total campaign moneys received by that agency.

d. Any shrinkage (moneys pledged but not contributed) shall reduce the moneys distributed to agencies in the same ratio as the designated moneys.

e. Moneys collected will be sent to the charitable agencies monthly by the centralized state payroll system.

25.4(5) *Termination of CCC administrator contract.* Rescinded IAB 6/13/90, effective 7/20/90

581—25.5(79) *Selection of the CCC administrator(s).* Rescinded IAB 6/13/90, effective 7/20/90

581—25.6(79) *Eligibility of charitable agencies.*

25.6(1) *Criteria to be included in campaign.* Any charitable agency or federation of agencies whose purpose is to provide or support health or human needs services or medical research may participate in the campaign provided it meets the following criteria:

a. Be a charitable agency as defined in rule 581—25.2(79).

b. Make available to the general public, campaign manager, and the director an annual financial report which is prepared by an independent certified public accountant, and provide for an annual external audit by an independent certified public accountant.

c. Receive its funds from either a communitywide solicitation or a statewide solicitation. d. Be a nonprofit, tax-exempt charitable organization within the meaning of section 501(c)3 of the United States Internal Revenue Code and any relevant state laws.

e. Have an active and responsible governing board that meets at least semiannually whose members have no material conflict of interest and who, except for a paid staff director, serve without compensation. f. Be providing or supporting health or human needs services or medical research in the state of Iowa that is readily accessible to residents of the state of Iowa.

g. Have a direct and substantial local presence in the state of Iowa. A telephone number alone shall not constitute a local presence. h. Operate without discrimination—religious, racial, or otherwise, both in employment and the delivery of services, as well as the distribution of funds.

i. Make a report available on an annual basis to the general public detailing the local activities of the agency. j. Have a detailed annual budget approved by its governing board in a form consistent with financial statements and generally accepted accounting procedures.

25.6(2) *Federations (umbrella organizations)*. Applications submitted on behalf of federations shall include a certification that all participating constituent agencies meet these eligibility criteria, and that they agree to comply with the rules set forth in this chapter. No charitable agency may participate both individually and as a member of a federation. 25.6(3) *Criteria for ongoing participation*. Once approved for participation, any charitable agency may be disqualified from participation in the campaign by the director for any of the following reasons:

a. Failure to comply with the rules contained in this chapter. b. Filing an application to participate in the campaign which contains false or misleading information. c. The campaign manager shall send notice on behalf of the director to the agency listing the reasons for disqualification.

25.6(4) *Reconsideration of decertification*. Any disqualified agency may request reconsideration of the director's decision using the procedures for reconsideration in subrule 25.4(3). 25.6(5) *Contributions to decertified agencies*. Any charitable agency decertified under the provisions of subrule 25.6(3) shall have any further payment of contributions terminated. Future collections of pledges to the decertified agency shall be distributed in the same ratio as are other undesignated gifts.

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CHAPTERS 26 to 30

Reserved

CHAPTER 31

DEPARTMENT PROCEDURE FOR RULE MAKING

(Effective 11/23/88)

581—31.1(19A) **Applicability.** Except to the extent otherwise expressly provided by statute, all adopted rules are subject to the provisions of Iowa Code chapter 17A, the Iowa Administrative Procedure Act, and the provisions of this chapter. The director has that rule-making authority specifically delegated to the director by statute. If rule-making authority is not specifically or by necessary implication vested in the director or another entity, the commission is vested with rule-making authority for the department for matters within the scope of chapter 19A. Unless otherwise specified, the provisions of this chapter pertain to both.

581—31.2(19A) **Public rule-making docket.**

31.2(1) *Docket maintained.* A current public rule-making docket shall be maintained. 31.2(2) *Anticipated rule making.* The rule-making docket shall list anticipated rule-making proceedings. A rule-making proceeding is deemed "anticipated" from the time a draft of proposed rules is distributed for internal discussion within the department. For each anticipated rule-making proceeding the docket shall contain a listing of the subject matter which may be submitted for consideration for subsequent proposal under the provisions of Iowa Code section 17A.4(1)"a," the name and address of department personnel with whom persons may communicate with respect to the matter, and an indication of the present status within the department of that possible rule. The department may also include in the docket other subjects upon which public comment is desired.

31.2(3) *Pending rule-making proceedings.* The rule-making docket shall list each pending rule-making proceeding. A rule-making proceeding is pending from the time it is commenced, by publication in the Iowa Administrative Bulletin of a Notice of Intended Action pursuant to Iowa Code section 17A.4(1)"a," to the time it is terminated, by publication of a Notice of Termination in the Iowa Administrative Bulletin or the rule becoming effective. For each rule-making proceeding, the docket shall indicate:

- a. The subject matter of the proposed rule;
- b. A citation to all published notices relating to the proceeding;
- c. Where written submissions on the proposed rule may be inspected;
- d. The time during which written submissions may be made;
- e. The names of persons who have made written requests for an opportunity to make oral presentations on the proposed rule, where those requests may be inspected, and where and when oral presentations may be made;
- f. Whether a written request for the issuance of an economic impact statement or a concise statement of reasons has been filed, whether the statement or a fiscal note has been issued, and where the written request, statement, or note may be inspected;
- g. The current status of the proposed rule and any determinations with respect to it;
- h. Any known timetable for decisions or other action in the proceeding;
- i. The date of the rule's adoption;
- j. The date of the rule's filing, indexing, and publication;
- k. The date on which the rule will become effective; and
- l. Where the rule-making record may be inspected.

581—31.3(19A) **Notice of proposed rule making.**

31.3(1) *Contents.* At least 35 days before the adoption of a rule Notice of Intended Action shall be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:

a. A brief explanation of the purpose of the proposed rule;

b. The specific legal authority of the proposed rule;

c. Except to the extent impracticable, the text of the proposed rule;

d. Where, when, and how persons may present their views on the proposed rule; and

e. Where, when, and how persons may demand an oral proceeding on the proposed rule

if the notice does not already provide for one.

Where inclusion of the complete text of a proposed rule in the Notice of Intended Action

is impracticable, the notice shall include a statement fully describing the specific subject mat-

ter of the omitted portion of the text of the proposed rule, the specific issues to be addressed

by that omitted text of the proposed rule, and the range of possible choices being considered

for the resolution of each of those issues.

31.3(2) *Incorporation by reference.* A proposed rule may incorporate other materials by

reference only if it complies with all of the requirements applicable to the incorporation by

reference of other materials in an adopted rule that are contained in subrule 31.10(2).

31.3(3) *Notices mailed.* Persons desiring to receive mailed copies of future Notices of

Intended Action by subscription must file with the department a written request indicating the

name and address to which such notices should be sent. Within seven days after submission

of a Notice of Intended Action to the administrative rules coordinator for publication in the

Iowa Administrative Bulletin, the department shall mail a copy of that notice to subscribers

who have filed such a written request with the department for mailed Notices of Intended Action.

The written request shall be accompanied by payment of the subscription price which may

cover the full cost of the subscription service, including its administrative overhead and the

cost of copying and mailing the Notices of Intended Action for the calendar year or the balance

thereof.

581—31.4(19A) Public participation.

31.4(1) *Written comments.* For at least 20 days after publication of the Notice of Intended

Action, persons may submit argument, data, and views, in writing, on the proposed rule. Such

written submissions shall identify the proposed rule to which they relate and shall be submitted

to the Iowa Department of Personnel, East 14th Street at Grand Avenue, Des Moines, Iowa

50319-0150, or the person designated in the Notice of Intended Action.

31.4(2) *Oral proceedings.* Oral proceedings on a proposed rule may be scheduled at any

time. An oral proceeding on a proposed rule shall be scheduled if, within 20 days after the

published Notice of Intended Action, a written request for an opportunity to make oral presen-

tations is submitted to the department by the administrative rules review committee, a govern-

mental subdivision, an agency, an association having not less than 25 members, or at least

25 persons. The request must contain the following information:

a. A request by one or more persons must be signed by each of them and include the current

mailing address of each of them.

b. A request by an association must be signed by an officer or designee of the association

and must contain a statement that the association has at least 25 members and the current

mailing address of the person signing the request.

c. A request by an agency or governmental subdivision must be signed by an official having

authority to act on behalf of that entity and must contain the current mailing address of the

person signing the request.

31.4(3) Conduct of oral proceedings.

a. *Applicability.* This subrule applies only to those oral rule-making proceedings in which

an opportunity to make oral presentations is authorized or required by Iowa Code section

17A.4(1)“b.”

b. *Scheduling and notice.* An oral proceeding on a proposed rule may be held in one or

more locations and shall not be held earlier than 20 days after notice of its location and time

s published in the Iowa Administrative Bulletin. That notice shall also identify the proposed rule by ARC number and citation to the Iowa Administrative Bulletin.

c. *Presiding officer.* The presiding officer shall be the chair of the commission or a person designated by the chair for proposed rules under the jurisdiction of the commission, or the director or a person designated by the director for the proposed rules under the jurisdiction of the director.

d. *Conduct of proceeding.* At an oral proceeding on a proposed rule persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule. Persons wishing to make oral presentations at a proceeding must notify the department at least one business day prior to the proceeding and indicate the general subject of their presentations. At the proceedings, those who participate shall indicate their current names and current mailing addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer. Oral proceedings shall be opened to the public and shall be recorded by stenographic or electronic means. The presiding officer may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views. Persons making oral presentations shall avoid restating matters which have already been submitted in writing.

To facilitate the exchange of information the presiding officer may, where time permits, open the floor to questions or general discussion. The presiding officer shall have the authority to take any reasonable action necessary for the orderly conduct of the meeting. Physical and documentary submissions presented by participants in the oral proceeding shall be submitted to the presiding officer. Such submissions shall become the property of the department. The oral proceeding may be continued by the presiding officer to a later time without notice other than by announcement at the meeting.

Participants in an oral proceeding shall not be required to take an oath or to submit to cross-examination. However, the presiding officer may question participants and permit their questioning by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question. The presiding officer may permit rebuttal statements and request the filing of written statements subsequent to the adjournment of the oral presentations. 31.4(4) *Additional information.* In addition to receiving written comments and oral presentations on a proposed rule according to the provisions of this rule, information may also be obtained concerning a proposed rule through any other lawful means deemed appropriate under the circumstances.

581-31.5(19A) Economic impact statement and fiscal note.

31.5(1) *Issuance of impact statement.* Upon written request of two or more members of the administrative rules review committee or the administrative rules coordinator the department shall issue a statement indicating its estimate of the economic impact of a proposed rule or a rule adopted in reliance upon the first sentence of Iowa Code section 17A.4(2) or made effective in reliance upon Iowa Code section 17A.5(2) "b," on all persons affected by it and upon the department, or a statement indicating that an estimate cannot be formulated and the reasons for this conclusion. The department may also issue an economic impact statement for a proposed or adopted rule on its own motion.

31.5(2) *Impact statement contents.* When an economic impact statement is issued in response to a written request from two or more members of the administrative rules review committee or the administrative rules coordinator, it shall conform to all lawful and feasible requirements for the statement imposed by the requester. An economic impact statement may contain one or more of the following:

- a. A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;
- b. A description of the probable quantitative and qualitative impact of the proposed rule upon affected classes of persons;
- c. The probable costs to the department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;
- d. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction;
- e. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;
- f. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered and the reasons why they were rejected in favor of the proposed rule;
- g. An indication of both the short-term and long-term consequences of the proposed rule; data, if any, used to formulate the estimates and their source; and
- h. An indication of the precise methodology used to reach the estimates and the particular data, if any, used to formulate the estimates and their source.

31.5(3) *Publication and notice of impact statement.* The economic impact statement or statement indicating the reasons why an estimate is impossible shall be published in the Iowa Administrative Bulletin at least 15 days in advance of the adoption of the rule if it is requested for a rule adopted in reliance upon the first sentence of Iowa Code section 17A.4(2) or made effective in reliance upon Iowa Code section 17A.5(2) "b."

31.5(4) *Fiscal note.* If a proposed rule is likely to necessitate additional expenditures by political subdivisions or agencies and entities that contract with a political subdivision to provide services which are beyond the expenditures explicitly provided by state law, a fiscal note estimating those costs shall be formulated by the department. In addition to that estimate, the fiscal note shall indicate the precise methodology used to reach that estimate and the data, if any, used to formulate that estimate and their source. The Notice of Intended Action shall indicate where and how persons may obtain copies of the fiscal note prepared for that proposed rule, which shall, if feasible, be available by the date the Notice of Intended Action is published in the Iowa Administrative Bulletin. If it is determined that the fiscal note issued in the proceeding upon which the rule is based contains errors, the department shall issue a corrected fiscal note.

581—31.6(19A) Time and manner of rule adoption.

31.6(1) *Time of adoption.* A rule shall not be adopted until the period for making written submissions and oral presentations has expired. Within 180 days after the later of the publication of the Notice of Intended Action or the end of oral proceedings concerning it, the rule shall be adopted pursuant to the rule-making proceeding or rule making shall be terminated by publication of a notice to that effect in the Iowa Administrative Bulletin.

31.6(2) *Consideration of public comment.* Before the adoption of a rule, all of the written submissions and oral submissions received in that rule-making proceeding or any memorandum summarizing oral submissions, and any economic impact statement, and fiscal note issued in that rule-making proceeding shall be taken into account.

31.6(3) *Reliance on agency expertise.* Except as otherwise provided by law, the agency may use its own experience, technical competence, specialized knowledge, and judgment in the adoption of a rule.

581—31.7(19A) Variance between an adopted rule and the proposed rule published under Notice of Intended Action.

31.7(1) A rule shall not be adopted that substantially differs from the rule proposed in the Notice of Intended Action on which the rule is based unless:

- a. The differences are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in that notice; and
- b. The differences are a logical outgrowth of the contents of that Notice of Intended Action and the comments submitted in response to it; and
- c. The Notice of Intended Action provided fair warning that the outcome of that rule-making proceeding could be the rule in question.

31.7(2) In determining whether the Notice of Intended Action provided fair warning that the outcome of that rule-making proceeding could be the rule in question the following factors shall be considered:

- a. The extent to which persons who will be affected by the rule should have understood that the rule-making proceeding on which it is based could affect their interests;
- b. The extent to which the subject matter of the rule or the issues determined by the rule are different from the subject matter or issues contained in the Notice of Intended Action; and
- c. The extent to which the effects of the rule differ from the effects of the proposed rule contained in the Notice of Intended Action.

31.7(3) Rule making shall begin within 60 days following receipt of a petition for rule-making seeking the amendment or repeal of a rule that differs from the proposed rule contained in the Notice of Intended Action upon which the rule is based, unless it is found that the differences between the adopted rule and the proposed rule are so insubstantial as to make a rule-making proceeding unnecessary. A copy of any finding and the petition to which it responds shall be sent to the petitioner, the administrative rules coordinator, and the administrative rules review committee within three days following its issuance.

31.7(4) Concurrent rule-making proceedings. Nothing in this rule shall take away from the discretion to initiate, concurrently, several different rule-making proceedings on the same subject with several different published Notices of Intended Action.

581—31.8(19A) Exemptions from public rule-making procedures.

31.8(1) Omission of notice and comment. To the extent that it is determined that public notice and participation are unnecessary, impracticable, or contrary to the public interest in the process of adopting a particular rule, rules may be adopted by the director without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral submissions by the public prior to adoption. The required finding and a brief statement of supporting reasons shall be incorporated in each rule adopted in reliance upon this subrule.

31.8(2) Categories exempt. The following narrowly tailored categories of rules are exempted from the usual public notice and participation requirements because those requirements are unnecessary, impracticable, or contrary to the public interest with respect to each and every member of the defined class:

- a. Rules that implement the precise language of federal law;
- b. Rules that implement the precise language of state law;
- c. Minor changes such as grammar, punctuation or spelling that are otherwise nonsubstantive and serve only to make a correction.

31.8(3) Rules adopted without public proceedings. A standard rule-making proceeding may be initiated for the adoption of a rule that is identical or similar to a rule adopted in reliance upon subrule 31.8(1). Upon written petition by a governmental subdivision, the administrative rules review committee, an agency, the administrative rules coordinator, an association having not less than 25 members, or at least 25 persons, a standard rule-making proceeding

shall be initiated for any rule specified in the petition that was adopted in reliance upon subrule 31.8(1). The petition must be filed within one year of the publication of the specified rule in the Iowa Administrative Bulletin as an adopted rule. The rule-making proceeding on that rule must be commenced within 60 days following the receipt of a petition. After a standard rule-making proceeding commenced pursuant to this paragraph, the rule may be readopted without benefit of all usual procedures on the basis of subrule 31.8(1), or other lawful action may be taken, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.

581—31.9(19A) Concise statement of reasons.

31.9(1) General. When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the department shall issue a concise statement of reasons for the rule. Requests shall be in writing and mailed to the Iowa Department of Personnel, East 14th Street at Grand Avenue, Des Moines, Iowa 50319-0150. The request shall indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

change;

31.9(2) Contents. The concise statement of reasons shall contain:
a. The reasons for adopting the rule;
b. An indication of any change between the text of the proposed rule contained in the published Notice of Intended Action and the text of the rule as adopted, with the reasons for the change;
c. The principal reasons urged in the rule-making proceeding for and against the rule, and the reasons for overruling the arguments made against the rule.
31.9(3) Time issuance. After a proper request, the department shall issue a concise statement of reasons by the later of the time the rule is adopted or 45 days after the receipt of the request. A copy of the concise statement of reasons shall be mailed to the requesting party within two working days of the date it is issued.

581—31.10(19A) Contents, style, and form of rule.

31.10(1) Contents. Each adopted rule shall contain the text of the rule and, in addition:
a. The date the rule was adopted;
b. A statement of the purpose of the rule;
c. A reference to all rules repealed, amended, or suspended by the rule;
d. A reference to the specific statutory or other authority authorizing adoption of the rule; e. Any findings required by any provision of law as a prerequisite to adoption or effectiveness of the rule; and
f. The effective date of the rule.

31.10(2) Incorporation by reference. All or any part of a code, standard, rule, or other publication may be incorporated by reference in a proposed or adopted rule, and without causing its text in the rule to be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, if any; and shall briefly indicate the subject of the incorporated matter. The department shall retain permanently a copy of any materials incorporated by reference in a rule of the agency and shall make copies available for inspection or copying subject to costs.

31.10(3) References to materials not published in full. When the Code editor decides to omit the full text of a proposed or adopted rule because publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient, the department shall prepare and submit to the Code editor for inclusion in the Iowa Administrative Bulletin and Iowa Administrative Code a summary statement describing the specific subject matter of the omitted

This summary statement shall include the title and a brief description sufficient to inform the public of the specific nature and subject matter of the proposed or adopted rules, and of significant issues involved in these rules. The summary statement shall also describe how a copy of the full text of the proposed or adopted rule, including any unpublished matter and any matter incorporated by reference, may be obtained from the department. The department will provide a copy of that full text, subject to costs, upon request.

At the request of the Code editor, the department shall provide a proposed statement explaining why publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient.

31.10(4) Style and form. In preparing its rules, the department shall follow the uniform numbering system, form, and style prescribed by the administrative rules coordinator.

581—31.11(19A) Agency rule-making record.

31.11(1) Requirement. The department shall maintain an official rule-making record for each rule it proposes or adopts by publication in the Iowa Administrative Bulletin. The rule-making record and materials incorporated by reference shall be available for public inspection.

31.11(2) Contents. The rule-making record shall contain:

- a. Copies of all publications in the Iowa Administrative Bulletin with respect to the rule or the proceeding upon which the rule is based and any file-stamped copies of submissions to the administrative rule coordinator concerning that rule or the proceeding upon which it is based;
- b. Copies of any portions of the public rule-making docket containing entries relating to the rule or the proceeding upon which the rule is based;
- c. All written petitions, requests, and submissions received, and all other written materials of a factual nature, as distinguished from opinions, that are relevant to the merits of the rule and that were created or compiled and considered in connection with formulation, proposal, or adoption of the rule or the proceeding upon which the rule is based, except to the extent that they are authorized by law to be kept confidential; provided, however, that when materials are deleted because they are authorized by law to be kept confidential, the record shall identify the particular materials deleted and state the reasons for deletion;
- d. Any official transcript of oral presentations made in the proceeding upon which the rule is based or, if not transcribed, the stenographic record or electronic recording of those presentations, and any memorandum prepared by a presiding officer summarizing the contents of those presentations;
- e. A copy of any economic impact statement or fiscal note prepared for the proceeding upon which the rule is based;
- f. A copy of the rule and any concise statement of reasons prepared for that rule;
- g. All petitions for exceptions to, amendments of, or repeal or suspension of, the rule;
- h. A copy of any objection to the issuance of that rule without public notice and participation that was filed pursuant to Iowa Code section 17A.4(2) by the administrative rules review committee, the governor, or the attorney general;
- i. A copy of any objection to the rule filed by the administrative rules review committee, the governor, or the attorney general pursuant to Iowa Code section 17A.4(4), and any response to that objection; and
- j. A copy of any executive order concerning the rule.

31.11(3) Effect of record. Except as otherwise required by law, the rule-making record need not constitute the exclusive basis for action on that rule.

31.11(4) Maintenance of record. The department shall maintain the rule-making record for a period of not less than five years from the date the rule is effective.

581—31.12(19A) Filing of rules. Each rule adopted shall be filed in the office of the administrative rules coordinator. The filing must be executed as soon after adoption of the rule as is practicable. At the time of filing, each rule must have attached to it any fiscal note and any concise statement of reasons that were issued with respect to that rule. If a fiscal note or statement of reasons was not issued until a time subsequent to the filing the note or statement must be attached to the filed rule within five working days after the note or statement is issued. In filing a rule, the standard forms prescribed by the administrative rules coordinator shall be used.

581—31.13(19A) Effectiveness of rules prior to publication. A rule may be made effective after its filing at any stated time prior to 35 days after its indexing and publication in the Iowa Administrative Bulletin if it is determined that a statute so provides, the rule confers a benefit or removes a restriction on some segment of the public, or that the effective date of the rule is necessary to avoid imminent peril to the public health, safety, or welfare. The required finding and a brief statement of supporting reasons shall be incorporated in each rule adopted in reliance upon this subrule.

31.13(2) Special notice. When a rule is made effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2)“b”(3), reasonable efforts shall be employed to make its contents known to the persons who may be affected by that rule prior to the rule's indexing and publication. The term “all reasonable efforts” requires that the department employ the most effective and prompt means of notice rationally calculated to inform potentially affected parties of the effectiveness of the rule that is justified and practical under the circumstances considering the various alternatives available for this purpose, the comparative costs to the department of utilizing each of those alternatives, and the harm suffered by affected persons from any lack of notice concerning the contents of the rule prior to its indexing and publication. The means that may be used for providing notice of such rules prior to their indexing and publication include, but are not limited to, any one or more of the following: radio, newspaper, television, signs, mail, telephone or personal notice. A rule made effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2)“b”(3), shall include in that rule a statement describing the reasonable efforts that will be used to comply with the requirements of this subrule.

581—31.14(19A) General statements of policy. **31.14(1) Compilation, indexing, public inspection.** The department shall maintain an official, current, and dated compilation that is indexed by subject, containing all of its general statements of policy within the scope of Iowa Code section 17A.2(7)“a,”“c,”“f,”“g,”“h,”“k.” Each addition to, change in, or deletion from the official compilation must also be dated, indexed, and a record kept. Except for those portions containing statements governed by Iowa Code section 17A.2(7)“f,” or otherwise authorized by law to be kept confidential, the compilation must be made available for public inspection and copying.

31.14(2) Enforcement of requirements. A general statement of policy subject to the requirements of this paragraph shall not be relied on by the department to the detriment of any person who does not have actual, timely knowledge of the contents of the statement until the requirements of subrule 31.14(1) are satisfied. This provision is inapplicable to the extent necessary to avoid imminent peril to the public health, safety, or welfare.

581—31.15(19A) Review by agency of rules. At least every five years, the department shall review its rules and decisions of particular applicability to determine whether any new rule should be adopted or any existing the rule should be amended or repealed. In conducting that review, the agency shall prepare a written report summarizing its findings, its supporting reasons, and any proposed course of action. A copy of the agency's report shall be sent to the administrative rules review committee and the administrative rules coordinator. The report must also be available for public inspection.

March 29, 1991

The dates on your Iowa Department of Personnel (IDOP) rule pages should be as follows:

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- 3 - 7/26/89
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Rule Summary

11-16-90

Filed for Notice of Intended Action - June 22, 1990
Notice of Intended Action Published - July 11, 1990
Public Hearing with Personnel Commission - August 23, 1990
Filed for Adoption - September 28, 1990
Publication of Adopted Rules - October 17, 1990
Effective Date - November 23, 1990

- 4.6(3) Changed the method of compensation for overtime.
- 4.8(3) Deleted the requirement to remove shift differential during absences.
- 8.6 Revised the rule to provide for reinstatement with intermittent status with continued eligibility for reinstatement with probationary or permanent status for the balance of the reinstatement period.
- 12.1(1)a & b Revised to allow a person other than the immediate supervisor to accept grievances. Also provides that copies of first and second step grievances be sent to the director.

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The first part of the report is devoted to a description of the experimental conditions and the results obtained. The second part is devoted to a discussion of the results and a comparison with the theoretical predictions. The third part is devoted to a summary of the results and a conclusion.

The results of the experiment are shown in Figure 1. The theoretical predictions are shown in Figure 2. The comparison of the results with the theoretical predictions is shown in Figure 3.

Rule Summary

Filed for Notice of Intended Action - November 23, 1990
 Notice of Intended Action Published - December 12, 1990
 Public Hearing with Personnel Commission - January 24, 1991
 Filed for Adoption - February 1, 1991
 Publication of Adopted Rules - February 20, 1991
 Effective Date - March 29, 1991

- 1.1 Revises definitions of "compensatory leave" and "certified disability program."
- 3.2(1) Clarifies the purpose and intent of class descriptions, position classification guidelines and position description questionnaires.
- 3.2(2)
- 3.2(3)
- 3.3
- 3.4(2) Clarifies that tentative classification decisions shall be issued within 90 calendar days unless additional information is required by the Department of Personnel; also changes the process for suspending the 90 calendar day time limit to whenever additional information is requested.
- 3.4(3) Requires that requests for reconsideration of position classification decisions specify the job class requested.
- 3.4(4) Requires mutual agreements to be placed in writing when extending the maximum time periods for the position classification review process.
- 3.4(6) Adds language that the position classification review process is not a contested case.
- 3.5(1) Clarifies the position classification review and classification appeal hearing process.
- 3.5(4)
- 3.5(5)
- 3.6(1)
- 3.6(4) Changes the reference from "performance" to "keyboard" test.
- 3.6(5) Rescind.
- 4.5(4)a Requires that a pay increase eligibility date be established for all employees who exceed or are at the maximum rate of the pay grade in their previous class and who subsequently receive a promotional pay increase.
- 4.5(7)c Allows the appointing authority to grant change in duty station pay for employee demotions.
- 4.6(3) Rescind paragraphs "c," "d," and "e."
- 4.7 Adds new rule that explains compensatory leave pay.
- 4.11 Changes the method of compensation for call back pay:
 - a) eliminates the requirement that the employee receive less than 48 hours prior notice as a condition for call back pay.
 - b) only call back hours actually worked in excess of 40 hours in a workweek shall be paid at the premium rate; nonworked call back hours in excess of 40 are paid at the regular rate of pay.
- 4.13 Revises standby rule to remove language on compensatory leave.
- 5.2(4)a Revises language to allow community-based corrections employees to be on promotional lists.

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5.2(4)b	Revises subparagraph 7 to allow community-based corrections employees to be on nonpromotional lists.
5.2(6)c	Clarifies language that applicants may be disqualified or removed from lists of eligibles if they have attempted any misrepresentation in connection with the selection process.
5.2(6)g	Clarifies that an applicant may be disqualified or removed from a list of eligibles if previously discharged from state government.
5.2(7)	Adds subrule that requires applicants to meet the qualifications and any selective certification requirements of a job class in order to be placed on a list of eligibles; also requires applicants or employees to possess licenses or certificates that are a condition of the job; employees who fail to maintain these requirements are subject to discharge; also requires employees to pay any fees associated with obtaining or renewing a license or certificate.
5.3(1)	Clarifies that keyboard tests are used to determine if applicants meet the minimum qualifications of job classes.
5.4(2)a	Clarifies that persons with disabilities are exempted only from examinations related to ranking applicants on nonpromotional lists.
8.3	Adds other possible employee statuses (statutory and temporary) for project appointments; clarifies that employees with permanent status in nonmerit project appointment positions shall be terminated at the expiration of the appointment if the employee is not transferred, demoted, or promoted.
8.13	Adds reference to new subrule 5.2(7) pertaining to rescinding appointments.
9.1	Deletes reference to positions covered by merit system provisions; requires the appointing authority to notify an affected employee and the director prior to the expiration of the six month probationary period in cases of probationary terminations.
12.1	Clarifies that grievance meetings are not contested cases; adds language that grievants may be represented at grievance meetings by other employees unless a conflict of interest exists - collective bargaining covered employees may only be represented by a union representative from the same employee organization; employees not covered by collective bargaining may only be represented by employees with the same bargaining status.
14.3(11)b	Permits the use of sick leave for "necessary attention" to members of the employee's immediate family.
14.8(4)	Corrects the period of time for granting premium holiday pay for overtime covered employees.
17.3(7)b	Stipulates a \$5.00 maximum charge per employee request for copying records from the employee's own official personnel file.
17.4	Inserts the word "or" in place of "and" in the last sentence.
17.4(2)	Changes language to require a signed statement when a person requests access to a confidential record.
17.4(3)	Clarifies language that requires notifications to persons who are subjects of requests to access confidential records.
21.11(7)	Changes the method for determining the monthly retirement allowance due a member during the month of the member's death (eff. 4-12-91).

Rule Summary

Filed for Notice of Intended Action - 3/30/90
Notice of Intended Action Published - 4/18/90
Public Hearing with Personnel Commission - 5/24/90
Filed for Adoption - 5/25/90
Publication of Adopted Rules - 6/13/90
Effective date - 7/20/90

1.1: Revised the definitions of "Classification plan", "Minimum qualification", "Position", and "Reclassification". Rescinded the definitions of "Class specification" and "Open competitive examination." Added definitions for "Examination", "Job class-services".
Added language pertaining to persons supplied by temporary employment agencies.

Ch. 3: Revised entire chapter. Changes include: the replacement of the word "specification" with "description"; added a subrule on "classification guidelines" (currently referred to as standards); employee may request commission review of a classification appeal decision record; and the department of personnel will decide effective dates of reclassifications.
4.5(1)g: Revised to allow interns to be paid anywhere in the pay range, except that payment in excess of 15% over the minimum is subject to the approval of the director.

5.2(1): Added language to include mental or physical capability to do a job to those items that may be required of applicants as proof of eligibility or qualification.
5.2(6)b: Added language that allows applicants to request reconsideration when disqualified or removed from an eligible list for any of the reasons listed in the subrule. Requests must provide written evidence of their qualifications or reasons why they should not be removed.

12.1 - first unnumbered paragraph: Requires that disciplinary actions be filed as appeals to correspond with language in subrule 12.2(6).
12.1(1)c - Changed the number of days in which an employee may file a grievance to the director from seven to fourteen days.
12.2(1)a: Replaced language by referring reader to chapter 3.
12.2(1)d: Clarified language on downward reclassifications.
12.2(6): Removed language that allowed disciplinary actions to be filed as grievances.

20.1, Rescinded "Agency" definition. Revised "Work force" definition 20.2(1): to allow for a breakdown within an agency by organizational unit.

25.2: Rescinded "Combined charitable campaign", "Combined charitable campaign administrator", and "Local community" definitions. Added definitions for the "Campaign manager" and the "One gift campaign".

25.3(1), (2), (3) & (5): Substituted the word "Campaign manager" for "CCC administrator".

25.4 and 25.4(1), (2) & (4): Substituted "Campaign manager" for "CCC administrator". Also designated the Department of Revenue and Finance as the One Gift fiscal agent. Changed the way moneys are collected and distributed. Inserted language pertaining to the distribution of funds.

25.4(3) Inserted the word "calendar" days and "written" request.

25.4(5): Rescinded.

25.5: Rescinded.

25.6(1) b and g: Changed "CCC administrator" to "Campaign manager".

25.6(3)c Added paragraph that pertains to disqualification from participation in the campaign.

25.6(5) Revised language, eliminated reference to "CCC administrator".

Sum3/Lm

Rule Summary

3/15/90

Filed for Notice of Intended Action - 11/22/89
Notice of Intended Action Published - 12/13/89
Public Hearing with Personnel Commission - 1/25/90
Filed for Adoption - 2/2/90
Publication of adopted rules 2/21/90
Effective Date - 3/30/90 (correction of date on NIT Summary)

3.2(6): Provides for a reduction in force if the position reclassified changes from merit to nonmerit coverage and the employee does not consent to the change.

4.5(13) Allows overlap appointments to classes other than the authorized position class.

5.2(4)a: Provides for permanent employees of the board of regents to apply to be on promotional lists at any time. Provides for nonpermanent employees of the board of regents to apply to be on nonpromotional lists at any time.

5.2(4)b 7.: Revised to permit only nonpermanent employees of the board of regents to apply to be on nonpromotional lists.

5.2(6) Clarifies language pertaining to the disqualification or removal from the eligible list of applicants who are physically or mentally incapable of performing the duties of the job class. Corrects sub-rule reference. Transfers language pertaining to the director's authority to rescind appointments to chapter 8.

6.5(2)d: Requires that employees removed from the eligible list be notified by IDOP within 5 working days.

8.1: Adds a paragraph that prohibits a person who has served as a commissioner or board member of a regulatory agency from employment with that agency for two years following the service.

8.13: Adds a rule (to replace a provision in chapter 5) that allows the director to rescind an appointment if an employee (when an applicant) should have been disqualified or removed as provided for in other subrules.

9.1: Inserts the word "recall" as one of those rights not provided to employees with probationary status.

10.2: Provides for a reduction in force if the merit system coverage of the position to which an employee is transferred is removed and the employee does not agree to the change in coverage.

10.4: Allows for the rescinding of a voluntary demotion if the merit system coverage of the position is removed and the employee does not agree to the change.

11.1(1)e: Same prohibition as rule 518-8.1(19A).

11.2(3): Provides for a reduction in force if the merit system coverage of the position to which an employee is disciplinarily demoted is removed and the employee does not agree to the change.

- 11.3: Allows for the inclusion of positions and employees not covered by merit system provisions in a reduction in force at the discretion of the appointing authority.
- 11.3(5)a: Limits bumping rights to employees who are in positions covered by merit system provisions unless nonmerit positions or employees, or both, are included in the reduction in force.
- 12.2(2): Rescinded
- 12.2(4): Combines subrules 12.2(2) and 12.2(4) by adding persons who are disqualified or are restricted from being on an eligible list to subrule 12.2(4) since appeal rights are the same. The burden of proof of eligibility rests with the individual.
- Adds language pertaining to the responsibility for representation and costs of an appeal.
- 14.3(4) Prohibits the conversion of sick leave to vacation if the employee's accrual is less than 240 hours in the pay period in which conversion is allowed. Allows for the prorating of converted sick leave for part-time employees.
- 14.8(1): Clarifies the definition of the value of a holiday for full-time employees based on the employee's schedule. Added a paragraph to allow compensation for holidays to be either in pay or compensatory leave.
- 14.8(4): Moves the language allowing compensation for holidays to be in either pay or compensatory leave at the appointing authority's discretion to subrule 14.8(1).
- 14.9(1): Allows for commuting time associated with military leave. Absences in excess of 30 workdays for military service must be charged to vacation, compensatory leave, or leave without pay.
- 14.12(3): Allows for an appointing authority to require an employee to report to work both before and after jury duty.
- 15.6(8)h: Rescinded due to Federal legislation. Employees may not withdraw deferred compensation funds even if they are less than \$3500.
- 16.1(3): Clarifies language pertaining to political expressions.
- 16.1(4): Rescinded
- 19.5(1): Adds manufacture and distribution of illegal drugs and alcohol to the list of prohibitions for employees who are on state business or on state property.
- 19.5(4): Prohibits drug testing except as provided in subrule 19.5(2), paragraph "b."
- 21.6(9)c(2)"4": Corrects division reference.

RULES SUMMARY

Effective 11/24/89, except Chapter 21 changes are effective 12/22/89

"Class Specification": Clarifies definition.

3.1(3): Changes the evaluation time for classification reviews from 60 to 90 calendar days. Changes the time frame for employees to request reconsideration of a classification decision from 14 to 30 days. Changes the response time for reconsideration of classification decisions by IDOP from 14 days to 30 days.

3.1(4),(5),(6): Clarifies that an incumbent may request a classification appeal committee hearing if IDOP fails to meet the time limits. Provides that classification changes will not be effective until the classification decision or appeal is final.

3.3(2): Revises the language that describes class specifications.

3.3(3): Deleted.

3.3(4) & (5): Renumbered as (3) and (4).

3.4: Changes the reasons for submitting job descriptions.

4.5(2)b(1), second unnumbered paragraph: Clarifies the circumstances under which a 26 week pay increase eligibility date is set for employees who are paid from a pay plan without steps. If an increase in pay is less than 5%, the employee retains their current date unless it exceeds 6 months. In this instance a new 6 month date would be set.

4.6(4): Clarifies the definition of pyramiding.

4.9(1): Provides for retroactive pay for the 90 day period prior to a pay correction.

4.11 and 4.13: Allows appointing authorities the discretion to compensate for call back or standby in either pay or compensatory leave. Also added compensatory leave accrual requirements.

5.2(4)b: Adds Board of Regents employees to those persons who can apply for closed classes.

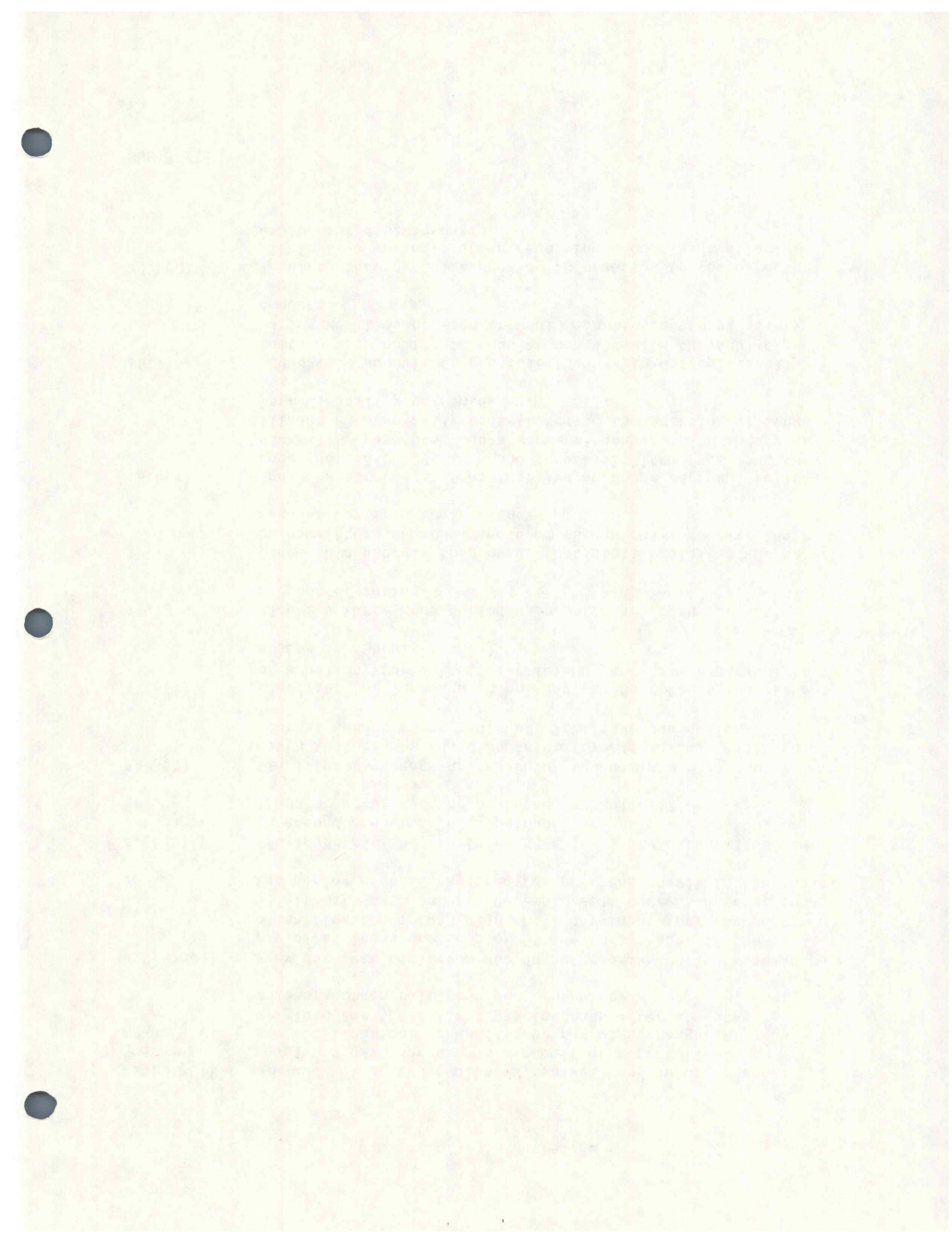
9.7: Requires that a period of leave without pay be over 30 days before an adjustment can be made to an employee's period of probationary status.

12.3: Added the Classification Appeal Committee in the list of contested case hearing bodies.

- 14.8(1): Prohibits the prorating of holiday pay for full-time employees when they have leave without pay during the pay period in which the holiday falls if other requirements are met. Inserted a statement to cover the leave accrued as vacation under Iowa Code Section 32.2(10).
- 14.8(3): Requires that noncontract employees be in pay status the last scheduled workday before and the first scheduled workday after a holiday in order to be given holiday pay.
- 14.8(4): Clarifies the 24 hour holiday period.
- 14.15: Struck the requirement that an employee have probationary or permanent status in order to be eligible for severe weather leave.
- 15.1 Changes dates to March 1. Inserted language that requires health maintenance organization master contracts to include provisions that require that a notice of termination by either party be done not less than 60 days prior to contract termination.
- 15.4: through 15.1 Changes dates to March 1. Inserted language that requires health maintenance organization master contracts to include provisions that require that a notice of termination by either party be done not less than 60 days prior to contract termination.
- 15.6(7)c: Lists the elements that must be included in the annual status report from companies participating in the Deferred Compensation Program and a penalty for failure to comply.
- 21.6(9): Changed language for IPFRS rate schedules to be applied to positions or classes.
- 21.6(9)c: Defined the authority for determining which jobs are eligible for "protection occupation" coverage and the requirements for continued eligibility.
- 21.6(9)4: Struck reference to Des Moines. Includes all airport fire-fighters employed by Disaster Services Division of Public Defense.

Summary of Rule Revisions
(effective 5/26/89)

- 4.5(2)(b)(1) - New and reinstated employees, as well as employees who receive a pay increase as a result of a promotion, reclassification, or a class or pay plan change, will be eligible for their first pay increase after 26 weeks unless another rule provides otherwise.
- 4.5(8)(e)(1) - Provides that employees who do not receive an increase in pay of at least one step or 5% due to a change in the classification or pay plan shall have a new pay increase eligibility date set if the employee's current date exceeds the period of time required for progression within the range.
- 4.5(10) - Provides that the pay increase eligibility date will be set in accordance with the applicable promotion, demotion, or transfer rules when an employee is reclassified.
- 14.3(4) - Clarifies the language regarding the maximum number of hours that can be added to an employee's maximum vacation accrual amount as a result of sick leave conversion.
- 14.8(4) - Clarifies the language on holiday pay to reflect the value of a holiday for both full-time and part-time employees as stated in subrule 14.8(1).
- 14.13 - Allows a three hour period when polls are open for the purpose of voting.
- 14.18 - Added this subrule to provide that state employees who serve on committees, boards, and commissions shall receive their regular pay from their agency.
- 15.4(4) - Includes attorney's fees that are approved pursuant to Iowa Code section 86.39, as a non-deductible item from long term disability payments when a workers' compensation injury or illness substantially contributed to the awarding of long term disability payments.
- 16.1(6) - Added this subrule to prohibit the wearing of political buttons when coming in regular contact with the public during working time or when it would constitute a real safety concern.
- 20.6(2) - Requires that agencies provide information to the director within five workdays after receiving a complaint alleging employment discrimination.



Rule Summary

(Effective 9-1-89)

5.4(2)b & c -- Removes the 15 day restriction for submitting requests for special admittance to an examination.

Removes the seven day time interval restriction for retaking performance examinations. However nonstate employees may only retake performance examinations when the class is open.

11.1(1)d -- Provides subrule references regarding employees who separate from employment when entering military service.

12.2(5) -- Employees who file appeals of grievance decisions with the public employment relations board must do so within 30 days following the issuance of the third step decision; or if not issued, the date on which it should have been issued.

12.2(6) -- Same as 12.2(5) except the subrule refers to employees who file appeals of disciplinary actions.

14.6 -- Revises rule by splitting into subrules 14.6(1) and 14.6(2). Subrule 14.6(1) describes the rights and conditions of employees who return from leave without pay regardless of the reason for the leave. Subrule 14.6(2) describes the rights and conditions of employees who separated from employment for purposes of military service and then return.

14.9(1) -- Adds inactive state or federal military service to leave rights of state employees. Also prohibits the rescheduling of employees to avoid paying military leave.

14.9(2) -- Allows employees to separate from employment for purposes of induction into the military service in lieu of being placed on leave without pay. Explains the procedures for accommodating the 30 work days of paid military leave when separating and when being placed on leave.

Clarifies the need for employees to apply for reemployment from military service with the previous agency or institution of employment.

Chapter 16 -- Revises the chapter in its entirety to more clearly state the rights of employees to political activities and the violations thereof.

18.4 -- Prohibits agencies from retaliating against employees who provide information to the general assembly or other public officials or who decline to contribute to charities. Added reference to Citizen's Aide office as contact for violations.

Chapter 20 -- Revises definitions of "Disabled Person" (removed reference to the civil rights commission) and "EEO-4 report" (removed reference to the department to make report available to agencies). STATE LIBRARY OF IOWA

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FOOTNOTES

Page 1 of 1

Summary of Rule Revisions
(effective 5/26/89)

- 4.5(2)(b)(1) - New and reinstated employees, as well as employees who receive a pay increase as a result of a promotion, reclassification, or a class or pay plan change, will be eligible for their first pay increase after 26 weeks unless another rule provides otherwise.
- 4.5(8)(e)(1) - Provides that employees who do not receive an increase in pay of at least one step or 5% due to a change in the classification or pay plan shall have a new pay increase eligibility date set if the employee's current date exceeds the period of time required for progression within the range.
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Rule Revision Summary
(Effective 10/26/88)

- 3.1(5) - Statement inserted defining the decision authority of the Classification Appeal Committee.
- 4.1(3) - Clarification of the terms "step" and "percent" in order to avoid repetitive phrasing throughout the rules.
- 4.5(1)a: - Statement inserted to make this subrule consistent with others requiring that an employee's pay increase eligibility date will not be changed when the increase is less than a normal one step or 5% increase.
- 4.5(1)b(3) - Same rationale as previous subrule.
- Changes were made in the rule references in several subrules from the specific paragraph to the subrule 4.5(17) only in order to avoid the need for updating many rules when changes are made to 4.5(17).
- 4.5(2)b - Provides a pay increase after 26 weeks to employees who are promoted in classes covered by pay plans without steps.
- 4.5(7)a (2), - and 3
Inserted language that requires that employees be paid within the pay grade when they are demoted to a class covered by a different pay plan.
- (3) This revision allows the salary to be set anywhere in the pay grade for the class on a demotion rather than the maximum for the new pay grade or be red-circled.
- 4.5(7)b (2) - See 4.5(1)a.
- 4.5(9) Introductory paragraph - Dropped all references to paragraphs when referencing subrule 4.5(17).
- 4.5(9)c - Allows employees who are on the top step of the pay grade who transfer to receive an increase in pay.
- 4.5(17) - Changed the rules related to red-circled pay by allowing the appointing authority to look at each situation on its own merits before requesting red-circling. The action must have prior approval by the director.
- 5.1 - Added language that closes all classes for application to other than state employees unless opened specifically to fill a need.
- 5.1(1) - Clarified language regarding employees who can apply for closed classes.
- 5.2(3) - Amended the rule to require that only applications that are processed are retained. Others are either returned or discarded.
- 5.2(6) - Allows the "removal from the list" of an applicant who has been disqualified for one of the reasons listed.
- 5.3(2) - Added psychological traits and other standards that are related to job requirements to the types of examinations that may be conducted.

- 7.9 - Deleted reference to opening a class when provisional authority is granted.
- 11.2(1) - Allows for suspension with pay up to 14 days during an investigation. Allows for recovery of money if a suspension without pay was justified.
- 12.1(1)c - EFFECTIVE 7-1-88
Result of new legislation. Changed the time for progression from the second step of a grievance to the third step from 30 to 7 days for the grievant and the response time from 21 to 30 days for management.
- 12.2(5) and - EFFECTIVE 7-1-88
Result of new legislation. Changed the appeal of an employee covered by merit system provisions of a disciplinary action from the appointing authority to the director. Changed the response time from 14 to 30 days. Allows the 30 day period in which to request an appeal hearing to PERB to count from the date of the director's response rather than the date of the disciplinary action.
- 14.6 - Revised language to require that employees returning from military leave notify the agency or institution of employment of their intent to return to employment.
- 14.9(2) - Clarification requiring military leave of inducted employees rather than termination.
- 14.11 - Revised legislation. Added employees who are appointed to an elective paid, partisan office to those employees who are eligible for a leave of absence while serving in that office.
- 20.1 - Revises definition of EEO-4 Occupational Category by changing the title of "office and clerical" to "administrative support" to reflect changes implemented by the federal Equal Employment Opportunity Commission.
- 20.1 - Adds "information from the report" to "EEO-4 Report" definition to reflect actual practice of sending extracted data. Format of original EEO-4 Report is not useful to individual departments.
- 20.1 - Adds "creed" and "age" to Equal Employment Opportunity" definition.
- 20.3(2) - Revision removes "age" from the list of work force analysis breakdowns because it is not required. Work force must be balanced only for race, gender and disability characteristics.
- 20.3(3)c - Provides that the Analysis report be in a format prescribed by the department. It eliminates the printing and stockpiling of related forms.
- 20.3(3)c - Word "separately" is removed because it is redundant. Full-time and other than full-time are by federal report requirements already required to be separate.
- 7.7(3) and 7.8 - Changed ARC reference from 570 to 581.

Rescinded. This rule removal reflects the fact that Chapter 19B of the Code makes no provisions for exemptions based on the size of the department.

20.3(3)d - Clarifies the exact step in the process where rounding should take place when calculating underutilization.

20.3(4)c - Again requires that analysis be in a format prescribed by the department to eliminate printing and stockpiling of forms.

20.3(4)d - Removal reflects fact that no exemptions are provided for in Chapter 19B of the Code.

20.3(6)a - Broadens and clarifies the language requiring that employee performance be based partially on contributions to EEO/AA.

20.3(6)d - Clarifies process for setting annual hiring goals by including the two primary factors to be considered, underutilization and projected vacancies.

20.3(7) - Allows departments to consolidate EEO-4 categories into broader groupings with IDOP approval.

20.5(2) - Requires that quarterly progress reports be made according to established procedures.

Chapter 21 - EFFECTIVE 7-1-88
Amended chapter 21 to include the following:

a. a change in the annual increase in the covered wage maximum; and years of service equal 92 if the member is at least 55 with 30 years of service;

b. retirement at full monthly benefits when the member's age and years of service equal 92 if the member is at least 55 with 30 years of service;

c. a change in the period of time for return from military service from 90 days to 12 months;

d. a change in benefit formula reduction from one-half of one percent to one-quarter of one percent for early retirement;

e. a change in the annual earning limit for retirees under 65 to \$6120; and

f. removal of the 30 years service requirement for disabled retirees.

Added a new subtitle to cover prior, out of state, buy back, veterans, and legislative members service credit provisions.

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- 4.5(9) - Nonsubstantive, no change in interpretation.
- 4.9(2) - Allows for exception to prescribed formula for repayment of salary overpayments by employees in unusual situations.
- 10.3 - Provides limited work assignments for a period of at least 20 work days without change in class or pay for employees who have been injured on the job.
- 11.1(1) - Requires that holiday pay be prorated for employees on phased retirement rather than at the full time rate.
- 11.3(6) - Provides recall rights to persons who were paid long term disability benefits and persons who were injured on the job once they have been medically released to return to work.
- 12.2(7) - Correction of rule reference.
- 14.2(2) - Provides prior service credit to persons who were paid long term disability benefits or who were injured on the job when recalled to state service.
- 14.3(12) - Allows appointing authorities the option of requiring or permitting the use of other accrued leave for medical reasons or once accrued sick leave has been exhausted.
- 14.4 - Rescinded this rule - dropped references to sick leave without pay. Will be referred to as leave without pay.
- 14.5(1) - Changed language to include sick leave without pay provisions in this rule.
- 14.5(3) - Requires that employees be notified within three days when they are placed on leave without pay because they do not supplement workers' compensation payments and thus do not receive a pay check.
- 14.5(4) - Added a new subrule to require that employees be granted either paid or unpaid leave for medical reasons for at least an eight week period when requested by the employee's physician or other licensed practitioner. Written verification may be required by the appointing authority at any time during the leave.
- 14.6 - Requires that employees make application for reemployment from a leave without pay directly to the agency or institution where employed.
- 14.8(3) - Requires that an employee be in pay status either the last normally scheduled work day before or the first normally scheduled workday after a holiday in order to receive the holiday pay.
- 14.9 - Requires that an employee make application for reemployment from a military leave without pay directly to the agency or institution where previously employed.

- 15.6(11) - Revised language pertaining to forms used for deferred compensation.
- 17.2 - Addressed the joint jurisdiction of employee payroll records by the Personnel Department and the Revenue and Finance Department pertaining to the following: access, confidential records, changes to records, collection, disclosure, retention, notices to suppliers and release of records.
- 17.3 - Procedures for access to open records.
- 17.3(7) - Charges for copying, examination, postage, and search and supervision of records.
- 17.3(7)d - Procedures for advance payment of charges.
- 17.4 - Procedures for access to confidential records.
- 17.4(3),(5) - Procedure for notice to subject when a request for a confidential record is received.
- 17.5 - Procedures for requesting confidential treatment of a record.
- 17.6 - Procedure for adding to records.
- 17.6 - Procedure for third party disclosure.
- 17.8 - Procedures for notifying persons who are asked to provide information about the use that will be made of that information.
- 17.9, 10 - Procedures for providing records without the consent of the subject.
- 17.11 - Procedures for disclosing confidential records with the consent of the subject.
- 17.12 - Exceptions to the release of confidential records to the subject.
- 17.13 - List of confidential record categories, disclosure authority, and notification to interested persons.
- 17.14 - List of record systems maintained by personal identifier.
- 17.15 - List of record systems not maintained by personal identifier which are routinely available for public inspection.
- 17.16 - Comparison of data processing systems.
- 17.17 - Applicability of chapter.
- 17.18 - Requirements for the administration of personnel record systems in other agencies. Forms used for collecting information.
- 19.1(1) - Description of Personnel Department operational entities.
- 19.1(5) - Description of Personnel Commission responsibilities.
- 19.5 - Drug use and drug test policies and procedures.

Clarifies that all provisions of the rule regarding pay increase eligibility dates (pert. evals. etc.) do not apply to the governor's staff, full-time boards and commissions, department heads, independent agency heads, deputy directors, division administrators, and others appointed by the governor.

4.4(1)

Revisions to pay and pay increase eligibility dates of employees who change classes in lieu of layoff and are subsequently recalled.

4.5(1)e

(1) Employees who receive a pay reduction and who are recalled to the class shall have that pay restored.
(2) Employees who are recalled to a class covered by a different pay plan with steps shall be adjusted to the next higher step.
(3) Employees whose current pay is below the minimum of the class to which recalled shall be paid the minimum.
(4) Employees whose current pay exceeds the maximum of the class to which recalled shall be reduced to the maximum.

Employees who are recalled from layoff shall be given a new pay increase eligibility date if they receive at least a one-step or 5% pay increase. Employees who are recalled following a class change in lieu of layoff shall be given a new pay increase eligibility date if they receive at least a one step or 5% pay increase.

4.5(1)f

New subrule addresses how pay and pay increase eligibility dates are set when employees change classes in lieu of layoff.

Employees will either:

- (1) Continue to be paid the same rate of pay.
- (2) If the class is in a different pay plan with steps have their pay adjusted to the next higher step.
- (3) Be paid the entrance rate if the employee's current pay is below the entrance rate of pay for the new class.
- (4) Be paid according to "red circled" rules if the employee's current pay exceeds the maximum.

- Pay increase eligibility dates shall not change unless:
- (1) The current date exceeds the time required of the step. Set a new date.
 - (2) The employee receives at least a one step or at least a five percent pay increase. Set a new date.
 - (3) The new step requires a longer period of time. Extend the current date but give credit for time served.
- 4.5(2)b(1) Clarification - Regardless of the appointment rate of pay, probationary employees paid from the 000 and 013 pay plans are eligible for a pay increase after 26 weeks.
- 4.5(7)a(3) Allows an employee's pay to be reduced to the maximum upon demotion unless the pay was already red-circled.
- 4.5(8)e(1) Set a new pay increase eligibility date when an employee's pay is increased by at least 5% or 1 step as result of a change in the classification or pay plans.
- 4.5(9) Clarification of pay on a transfer when it exceeds the maximum.
- 4.5(9)e(1) Sets a new pay increase eligibility date when an employee's pay is increased by at least 5% or 1 step as a result of a transfer.
- 4.5(17) Clarification on red-circling.
- o Transfer within the agency or demotes - current red-circled pay continues until previously established expiration date.
 - o Transfer to another agency - current red-circled pay may be continued until the previous expiration date or reduced to the maximum.
 - o Voluntary or disciplinary demotion, change classes in lieu of layoff or downward classification. If not currently red-circled, may be red-circled for up to one year.
 - o Transfer within agency to a class in a different pay plan. If not currently red-circled, shall be red-circled for one year.
 - o Transfer to another agency to a class in a different pay plan. May be red-circled for up to one year.
 - o Change in pay plan. If not currently red-circled, shall be red-circled for one year.
- 5.1(2) Struck clause limiting promotional certification to permanent employees. Covered in 5.2(4)a.

Requirements regarding the submission of information on applications for employment. Persons must supply their name, mailing address, signature, and social security number or they may request the assignment of a number in lieu of their social security number.

5.2(1) Added interns who are enrolled in the internship program to those who can apply to be on promotional lists.

5.2(4)a Interns who are not enrolled in the internship program may only be on nonpromotional lists.

7.11 Corrected rule reference.

8.6 Clarification. Current employees are not eligible for reinstatement to another class unless they demoted from the class.

11.3(1)a & b Requires agencies to get the director's approval for temporary layoffs.

11.3(2)d Reduction in force plans shall include an affirmative action impact statement. Plans shall also include any affirmative action or special skills or abilities exemptions from layoff or bumping.

11.3(5)a Positions may be exempted from bumping for affirmative action purposes or where special skills or abilities are required.

12.1(1)a,b,c Requires that agencies attempt to resolve grievances at steps 1 or 2 with relief, if permitted by rules.

12.2(1)a Requires that classification hearings be held in accordance with contested case provisions.

12.2(1)b Corrected an Error - needed to include "and from" for purpose of overtime compensation when traveling to hearings is required.

12.2(2),(4) Corrected rule reference.

12.2(5) Removed rule violation as a reason for appealing a grievance.

14.3(4) Included maximum accrual of 96 hours of converted sick leave to vacation. Provided for conversion on a monthly basis for part-time employees on a three to one basis which is the same ratio as full-time employees.

- 14.3(12) Allows employees who have applied for LTD to elect a lump sum payment of accrued vacation and compensatory leave in order to prevent further accrual of sick leave and delay of LTD benefits.
- 14.17 Moved Rule 19.4 on examination and interviewing leave to this chapter. No conceptual changes.
- 15.1(1) Added rules pertaining to state group health insurance carriers.
- 15.1(3) Increases the minimum qualifications required of HMO's proposing to offer services to state employees as part of the state's health insurance plan, thereby increasing the quality and continuity of HMO services provided to state employees. Input for revised rules obtained from the State Insurance Committee, Iowa Insurance Commissioners staff and Federal DHHS Office of Prepaid Health Care Plans.
- 15.2 Added rules pertaining to state group dental insurance carriers.
- 15.3 Added rules pertaining to state group life insurance carriers.
- 15.4 Added rules pertaining to state group long term disability insurance carriers.
- Chapter 19 - Nonsubstantive changes to 19.1. 19.4 moved to 14.17.
- Chapter 21 - Changed rules pertaining to the organization of IPERS and the responsibilities of the division administrator.

SUMMARY OF RULE CHANGES

Chapter 1

- "Confidential employee" definition lists more specifically those employees who have confidential status for purposes of merit system coverage or collective bargaining eligibility.

- Included legal wards in the definition of "immediate family."

- "Pay increase" is a new definition that will be used throughout the rules to refer to what was previously called either a merit increase, step increase or an automatic pay increase.

- Replaced the word "reallocation" with "reclassification."

- Defined the word "temporary" to include all state employees who are not hired to work on a permanent basis.

Chapter 2

- 2.2(3) Details return rights until July 1, 1987 for employees who were excluded from merit system coverage due to the reorganization (Senate File 2175).

- 2.3 All IDOP rules will apply to employees who are confidentially excluded from collective bargaining including being paid from the 000 pay plan and receiving benefits the same as other non-contract employees. However, employees who are "confidential," but their class is covered by a collective bargaining agreement, shall be subject to the reduction in force provisions of the agreement.

Chapter 3

- 3.1(3) Changed the period of time that requests for reclassification shall be evaluated by IDOP from 120 to 60 calendar days. Provided a 30 day period during which an agency or employee must provide additional documentation when required. Changed the period of time for requests for reconsideration of reclassification decisions from 30 to 14 calendar days. Changed the period of time for the issuance of the final decision from 30 to 14 days.

- 3.1(5) Changed the period of time for appeal of a classification decision from 30 to 14 calendar days. Provided a 30 day period in which a classification appeal must be scheduled. Removed the one year binding period of a classification appeal decision.

- 4.5(1)(b)(4) Allows advanced appointment rates for employees who are reclassified.
- 4.4(1) Lists those employees whose pay and pay increases are not governed by Chapter 4.
- 4.1(3) Employees paid from collective bargaining pay plans provided for in 4.1(2)a will be paid on a step (01, 02, 03, 04, 05, 06, or 07). All other employees will be paid either the minimum (step 01) or the maximum (step 06) or somewhere in between (step 00). Employees with salaries that exceed the maximum shall have their salary red-circled (step XX). When "step" is used in the rules it applies to employees paid from the pay plans in 4.1(2)a. When "percentage" is used in the rules it applies to employees paid from the pay plans in 4.1(2) b or c.
- 4.1(2)c Pay plan for employees who are either not eligible for collective bargaining or are excluded by virtue of having "confidential-C" status. Position bargaining unit/statuses: all bargaining units, statuses C, S, and E.
- 4.1(2)b Pay plan for employees who are eligible for collective bargaining but are not organized. Position bargaining unit/statuses: 008N, 009N, 010N, 011N and 012N.
- 4.1(2)a Pay plans for employees who are covered by collective bargaining agreements. Position bargaining unit/statuses: 001N, 002N, 102N, 003N, 103N, 004N, 104N, 005N, 015N, 006N, 106N and 007N.
- 4.1(2) Three types of pay plans.

Chapter 4

- 3.4 New job descriptions must be submitted as soon as changes in responsibilities are identified that may change the classification.
- 3.2(6) Positions shall not be reclassified from merit system coverage to non-merit system coverage without the written consent of the employee. Copies of the consent letter must be submitted with the personnel action document on the employee.
- 3.1(6) Provided for the restoration of previous duties to a position if a reclassification request is not approved by the Department of Management within three pay periods following approval by IDOP. Reclassification will be void if a personnel action document is not submitted within 90 days following the effective date.

- 4.5(1)c Allows advanced appointment rates for employees who are reinstated.

- 4.5(1)d Provides that employees who return from military leave or agency required educational leave shall be entitled to all pay increases for which they were entitled during the period of leave.

- 4.5(2)b Employees paid from other than collective bargaining pay plans may be given a pay increase on their eligibility date of any amount that is within the range except it cannot exceed 5% if the employee's performance evaluation rating is less than 3.00. New employees may be given a pay increase at the end of the 6 month probationary period with pay increases due at 52 week intervals thereafter.

- 4.5(2)b(2) Employees paid from collective bargaining pay plans have dates set in accordance with that shown in their respective pay plan.

- 4.5(2)b(3) Pay increase eligibility dates are not adjusted for periods of military leave or agency required educational leave.

- 4.5(3) Removed the time restrictions for giving exceptional job performance pay.

- 4.5(4) The discretion to give only a one-step pay increase when an employee is promoted to a class with a 3 or more pay grade difference has been removed. Employees must be given 2 steps.

- 4.5(5) The discretion to calculate a promotional pay increase for an employee who has been receiving leadworker pay from the base pay has been removed. Leadworker pay must be added to the base pay prior to calculating a promotional pay increase.

- 4.5(17)d and e Noncontract employees may be red-circled for up to one year when demoted or transferred.

- 4.5(17)f Noncontract employees must be red-circled for one year if their pay exceeds the maximum as a result of a change to a pay plan.

Chapter 5

- 5.2(4) Copies of all advertisements announcing employment opportunities and any additional information requested must be submitted to IDOP.

- 8.3 Extensions of project appointments are no longer limited to twelve months.

- 8.4 Provisional intermittent appointments are limited to 4 months (120 calendar days).

- 8.6 Former permanent employees may be reinstated to any class for which they qualify. Permanent employees who have demoted may be reinstated at any time to the class held prior to the demotion without promotional certification.

- 8.10(3) After working six months, an intern appointee is eligible to be placed on the promotional eligible list. However, once the employee is hired in a permanent position, they are no longer eligible for promotional certification until they have attained permanent status.

- 8.11 New rule pertaining to seasonal employees. Period extends from the beginning of the pay period that includes April 15 until the end of the pay period that includes October 15.

Chapter 9

- 9.6 An employee who is reclassified during the period of probationary status must be eligible for certification from an open competitive list if the position is covered by merit system provisions and the class is not a work-test class.

Chapter 10

- 10.1(3) Agencies must collect and maintain data on the characteristics of employees considered for promotion.

- 10.2 Agencies may not transfer employees from positions covered by merit system provisions to positions that are not without the written consent of the employee. A copy of the consent letter must accompany the personnel action document effecting the transfer.

- 10.3(4) Agencies may not make special duty or extraordinary duty assignments that exceed three pay periods without additional pay.

- 10.4 Agencies may not demote employees from positions covered by merit system provisions to positions that are not without the written consent of the employee. A copy of the consent letter must accompany the personnel action document effecting the demotion.

- 11.2(5) Notices to employees of disciplinary action must include the verbatim content of subrule 12.2(6).
- 11.3(2) Reduction in force units must be approved by the director prior to implementing the reduction in force. Temporary employees and employees with probationary status in reduction in force classes must be terminated first. Employees must be given at least a 20 working day notice prior to a reduction in force.
- 11.3(3)a Retention point credit has been extended to include continuous exempt service in the executive branch and noncontinuous service prior to November 10, 1970 that has been credited to an employee.
- 11.3(3)b Defines a valid performance evaluation for purposes of retention point calculation.
- 11.3(4) When requesting an exemption from reduction in force for affirmative action purposes an agency must show underutilization in the class.
- 11.3(5)a Employees may choose whether they wish to bump to a lower class in the series or to a formerly held class rather than in sequential order.
- 11.3(5)b Employees in positions covered by merit system provisions may decline bumping to positions that are not covered by merit system provisions.
- 11.3(6) Vacancies must be filled through recall before any other person is promoted, demoted, transferred or hired.
- 11.3(6)b(2) Employees may decline recall to a type of position (merit or nonmerit) that is different from that when laid off without jeopardizing their recall rights to positions with the same status.
- Additional recall rights have been extended to noncontract employees who are laid off prior to July 1, 1987.
- 11.3(6)b(3) Agencies that need to fill vacant positions with persons that possess special qualifications need not recall employees who do not possess those special qualifications.

- 14.2(1)e Employees shall not be granted vacation after their last workday prior to separation.
- 14.2(1)h Employees who require the care of a physician during a vacation leave shall, if requested, have that time charged to sick leave rather than vacation, upon proof from the physician.
- 14.4 Employees need not exhaust their vacation prior to an appointing authority granting sick leave without pay. However, sick leave with pay must be exhausted.
- 14.9 Employees are entitled to be paid for 30 workdays military leave per calendar year.
- 14.10(4) Agencies are required to report all educational leaves to the director and the legislative council.
- 14.10(5) Agencies are required to make a report of all costs associated with educational leave on a fiscal year basis to the director and the legislative council.
- Employees who are candidates for paid, partisan elective office need not take leave for the 30 day period prior to the election unless they choose to do so.

Chapter 14

- 13.2(2) Periods of service during military leave or agency required educational leave shall be considered competent (3.00).
- Supervisors must complete performance evaluations on employees who are moving to other sections, bureaus, divisions, or agencies prior to the move.

Chapter 13

- 12.1(4) All employees, if eligible for overtime, are to be in pay status for overtime hours if authorized to attend grievance meetings.
- 12.1(1) Grievance filing order changed to: supervisor, first; appointing authority, second; IDOP director, third; and public employment relations board, fourth. Decision at the third step must include the verbatim content of subrule 12.2(5) and the number of days in which the employee may appeal to PERB.

Chapter 12

RULSUM/pc

Chapter 20 - New Chapter on Affirmative Action

- 19.1(1) This subrule defines the administrative divisions within the Department of Personnel.

Chapter 19

- 15.10 Section added on education financial assistance.
- 15.9 Section added on interviewing and moving expenses.
- 15.6(8)F Deferred compensation payments will not be ordered until at least 31 days after termination.
- 15.6(8)e Terminating employees are not allowed to transfer ownership of a policy to a new employer.
- 15.6(8)c Employees must make an irrevocable decision as to the disposition of funds within 30 days after termination.
- 15.6(2) "Normal retirement age" for deferred compensation purposes has been changed to 70 1/2 years of age for all employees except for employees who choose catch-up provisions.

Chapter 15 - New Chapter on Benefits effective August 15, 1986





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Attached are replacement pages for your Department of Personnel Rules. These rules were made effective by emergency adoption and implementation on August 5, 1993. An explanation of these rules was sent out under separate cover to Personnel Assistants on August 2, 1993. If you have any questions concerning the application or interpretation of a particular rule, please contact your Personnel Officer.

RE: Iowa Department of Personnel Rules

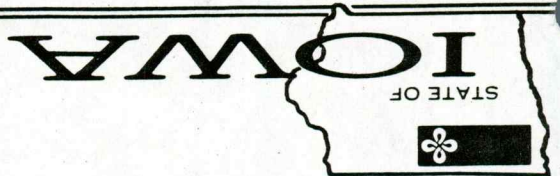
FR: Clint Davis
Assistant to the Director

TO:

September 22, 1993

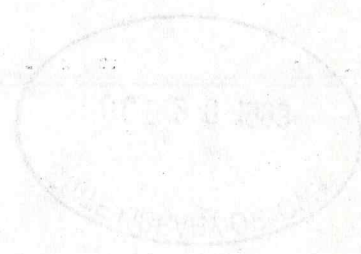
TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF PERSONNEL
LINDA G. HANSON, DIRECTOR



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409.MEM

In the packet of rule changes sent to you under the cover memo dated March 30, 1993, page 1 of Chapter 21, "Iowa Public Employees' Retirement System" was inadvertently printed on the back of the last table of contents page. Attached please find a replacement page for Page 1 of Chapter 21.

We apologize for any inconvenience created by this error.

RE: Iowa Department of Personnel Rules

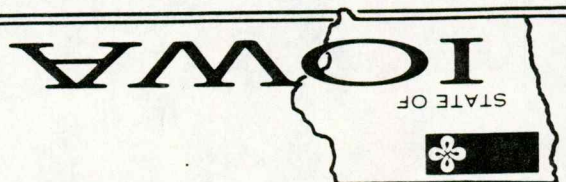
FR: Clint Davis Assistant to the Director

TO:

April 15, 1993

DEPARTMENT OF PERSONNEL
LINDA G. HANSON, DIRECTOR

TERRY E. BRANSTAD, GOVERNOR



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RECEIVED BY THE DIRECTOR OF THE BUREAU OF THE CENSUS
MAY 10 1960

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF ECONOMIC ANALYSIS
WASHINGTON, D. C. 20540

FOR THE DIRECTOR OF THE BUREAU OF ECONOMIC ANALYSIS
MAY 10 1960

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF ECONOMIC ANALYSIS
WASHINGTON, D. C. 20540

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UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF ECONOMIC ANALYSIS
WASHINGTON, D. C. 20540

CPD316.M

Attached are replacement pages for your Department of Personnel Rules. These rules are effective April 7, 1993. Specifically, these rules constitute a complete rewrite of the Iowa Public Employees' Retirement System (IPERS) Chapter and, with the exception of rules to implement changes concerning garnishment, incorporate all law changes made during the 1992 session of the General Assembly.

If you have any questions concerning the application or interpretation of a particular rule, please contact your Personnel Officer.

RE: Iowa Department of Personnel Rules

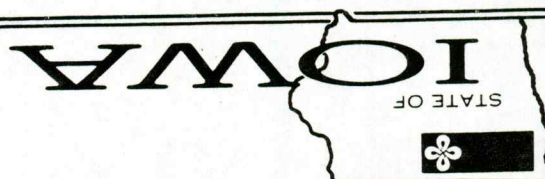
FR: Clint Davis
Assistant to the Director

TO:

March 30, 1993

DEPARTMENT OF PERSONNEL
LINDA G. HANSON, DIRECTOR

TERRY E. BRANSTAD, GOVERNOR



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 - 21.3(97B) Liable employers
 - 21.4(97B) Definition of wages for employment during the calendar quarter—other definitions
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CHAPTER 21
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

(Effective 4/7/93)

581-21.1(97B) Organization. The Iowa public employees' retirement system was created by Iowa Code chapter 97B.

21.1(1) Definitions. Unless otherwise prescribed by federal or state regulations, the terms used in this chapter shall have the following meanings:

"Board" means the investment board of IPERS established in Iowa Code section 97B:8; **"Chief benefits officer"** means the person employed by the director to administer the benefits programs of the retirement system.

"Chief investment officer" means the person employed by the director to administer the investment program of the retirement system.

"Department" means the Iowa department of personnel.

"Director" means the director of the Iowa department of personnel.

"IPERS" means the Iowa public employees' retirement system.

21.1(2) Administration. The director, through the chief investment officer and the chief benefits officer, shall administer Iowa Code chapters 97, 97B, and 97C, shall execute contracts on behalf of IPERS, and shall make expenditures, reports, and investigations as necessary to carry out the powers and duties created in Iowa Code chapter 97B, and may obtain as necessary the specialized services of individuals or organizations on a contract-for-services basis.

21.1(3) Location. General correspondence, inquiries, requests for information or assistance, complaints, or petitions shall be addressed to: Iowa Public Employees' Retirement System, 600 East Court Avenue, P.O. Box 9117, Des Moines, Iowa 50306-9117.

21.1(4) Business hours. Business hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

21.1(5) Investment board.

a. The board shall meet annually, and may meet more often, to review its investment policies. Future meeting dates shall be set by members of the board at the end of each meeting.

b. At the first meeting in each fiscal year, the voting members shall elect a chair and vice-chair. The principal place of business of the investment board is located at 600 East Court Avenue, Des Moines, Iowa.

d. Advance notice of time, date, tentative agenda, and place of each meeting shall be given in compliance with Iowa Code chapter 21.

e. Parties wishing to present items for the board's agenda for its next meeting shall file a written request with IPERS at least five workdays prior to the meeting. The board may take up matters not included on its agenda.

f. Quorum. Six members eligible to vote shall constitute a quorum. A simple majority vote of the members present shall be the vote of the board.

g. In the event that it should become necessary to fill the chief investment officer position, the board may consult with, and make hiring recommendations to, the director.

581-21.2(97B) Records to be kept by the employer.

21.2(1) Definition. Each employing unit shall maintain records to show the information hereinafter indicated. Records shall be kept in the form and manner prescribed by IPERS. Records shall be open to inspection and may be copied by IPERS and its authorized representatives at any reasonable time.

21.2(2) Records shall show with respect to each employee: the employee's name, address and social security account number; each date the employee was paid wages or other wage equivalent (room, board, etc.); the total amount of wages paid on each date including non-cash wage equivalents; the total amount of wages including wage equivalents on which IPERS

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Attached are replacement pages for your Department of Personnel Rules (Chapter 20, pp. 3 and pp. 4) which were inadvertently omitted in the package mailed to you November 13, 1992. These rules were effective November 18, 1992. If you have any questions concerning the application or interpretation of a particular rule, please contact your Personnel Officer.

FR: Clint Davis
Assistant to the Director
RE: Iowa Department of Personnel Rules

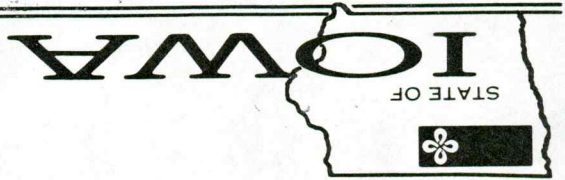
TO:

MEMORANDUM

December 14, 1992

LINDA G. HANSON, DIRECTOR
DEPARTMENT OF PERSONNEL

TERRY E. BRANSTAD, GOVERNOR



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Attached are replacement pages for your Department of Personnel Rules and a summary of the changes. These rules were effective as noted on the individual pages.
If you have any questions concerning the application or interpretation of a particular rule, please contact your Personnel Officer.

RE: Iowa Department of Personnel Rules

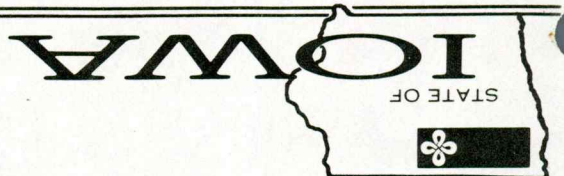
FR: Clint Davis Assistant to the Director

TO:

June 18, 1992

DEPARTMENT OF PERSONNEL
LINDA G. HANSON, DIRECTOR

TERRY E. BRANSTAD, GOVERNOR



The dates at the top of your Iowa Department of Personnel (IDOP) rule pages should be as follows:

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IOWA DEPARTMENT OF PERSONNEL (IDOP) RULES SUMMARY

7.3(1) 7.12
Modifies the use and adjustment of recall certificates.

11.3(1)a
Changes the length of time (from 120 hours to 20 consecutive days) that employment may be interrupted without applying reduction in force rules.

11.3(2)d
Requires appointing authorities to provide reasons in the reduction in force (RIF) plan when choosing reduction in force units that are smaller than a division; deletes the requirement for an affirmative action impact statement as part of the RIF plan and deletes affirmative action as an exemption from RIF.

11.3(2)e
Requires the posting of retention points for each affected employee within each RIF unit.

11.3(4)b
Deletes the option of applying affirmative action exemptions from reduction in force or the effects of bumping.

11.3(5)a
Stipulates that nonsupervisory employees may only elect bumping to positions in nonsupervisory classes; prohibits bumping to classes from which employees were voluntarily or disciplinarily demoted.

11.3(5)b
Permits the appointing authority to designate vacant positions for bumping purposes if the Department of Management certifies that funds are available and all applicable contract transfer procedures and recall provisions have been exhausted; adds reference to pay upon bumping.

11.3(6)(2)
Prohibits recall to classes from which employees were voluntarily or disciplinarily demoted.

11.3(6)(3)
Stipulates that employees may only designate other recall classes for which qualified that are at the same or lower pay grade in relation to the class from which bumped or laid off.

11.3(6)(3)2
Clarifies that employees may not designate particular agencies to which they will or will not accept recall.

11.3(6)(3)3
Provides that nonsupervisory employees may only select nonsupervisory classes for recall.

11.3(6)(3)5
Stipulates that recalled employees who were terminated during the six month probationary period may be restored to the recall list for the remainder of the one year recall eligibility period.

11.3(6)(3)6 Changes the reference "counties" to "conditions of availability."

11.3(6)d Changes the issuance of recall certificates as follows:

- First choice for recall shall go in retention point order to laid off employees of the agency filling the vacancy.
- If there are no former employees on recall, the agency shall consider recalling persons laid off from other agencies. These persons may be bypassed only with approval by the director of personnel.

11.3(6)1 Adds reference concerning pay upon recall.

15.8 Corrects the plan year for the pretax program (August 1 to July 31 of each year).

18.2 Current 18.2, 18.3, and 18.4 are renumbered. The new 18.2 directs agencies to develop guidelines concerning the sale of goods and services by employees, and sets forth the manner in which employees obtain consent from the appointing authority for the sale of goods or services, and may grieve the denial of such requests.

24.261 Provides for the method by which the POR Board of Trustees will calculate the interest rate on payouts of accumulated benefits for members who leave the system by other than death or disability.

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If you have any questions concerning the application or interpretation of a particular rule, please ask your Personnel Officer.

IT IS IMPORTANT THAT YOU UPDATE YOUR RULES IN ORDER TO CORRECTLY INTERPRET AND APPLY THE RULE PROVISIONS. CONTACT ANOTHER MANAGER OR SUPERVISOR OR THE PERSONNEL ASSISTANT IN YOUR AGENCY OR INSTITUTION FOR REPLACING OBSOLETE PAGES.

- a summary of the rule changes.
- an updated list that identifies the publication date for all current rule pages. This date is noted at the top of each page.

Also attached is:

Attached are replacement pages for your Department of Personnel Rules. These rules were submitted for Notice of Intended Action on August 1, 1992. They were filed for adoption on November 20, 1991 with an effective date of January 17, 1992.

RE: Iowa Department of Personnel Rules (Rules Package 1992 - #1)

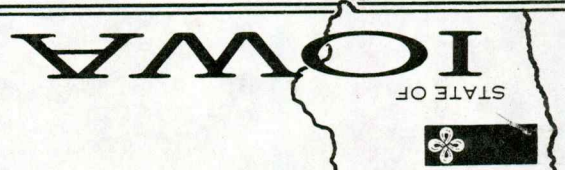
FR: T. A. Meyer, Executive Assistant
Director's Staff

TO:

January 13, 1992

TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF PERSONNEL



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January 13, 1992

The dates on your Iowa Department of Personnel (IDOP) rule pages should be as follows:

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Chapter 23
Pages 1 and 2 - 8/12/87

Chapter 31
Pages 1 thru 8 - 10/19/88

IOWA DEPARTMENT OF PERSONNEL (IDOP) RULES SUMMARY

Filed for Notice of Intended Action - August 1, 1991
Notice of Intended Action published - August 21, 1991
Public Hearing with Personnel Commission - September 26, 1991
Filed for Adoption - November 20, 1991
Publication of Adopted Rules - December 11, 1991
Effective Date - January 17, 1992

1.1 Revises the definition of call back pay by stating that eligible employees are directed by the appointing authority to report back to work outside their regularly scheduled hours; also adds reference to Internal Revenue Code.

3.1(1) Clarifies that the Director of the Department of Personnel determines the assignment of positions to specific job classifications.

3.2(1) Clarifies that the Department of Personnel is responsible for developing classification descriptions.

3.5(5) Clarifies that an appellant may file a petition to the personnel commission within 30 calendar days following the date of the classification appeal committee's written decision; substitutes the word "petition" for "request" and "request for review."

5.2(7) Clarifies that the Director of the Department of Personnel determines whether or not an applicant meets the qualifications and requirements for a job class.

5.3(3) Adds a new subrule that establishes standards for conducting background checks on applicants.

5.4(2)c Clarifies that the 180 calendar day waiting period for retaking psychological examinations applies to those administered by or on behalf of the Department of Personnel.

12.1(1)c Adds language that the Iowa Civil Rights Commission procedures shall constitute final agency action and are the exclusive remedy for appeal of third step decisions concerning grievances that allege discrimination.

21.6(9)b Revises the contribution rates for sheriffs and deputy sheriffs and members of special protection occupation groups under IPERS (effective 7-1-91).

15.8 Add a new rule about application and enrollment procedures for the premium conversion (pre-tax) program.

15.7 Add a new rule about application and enrollment procedures for the dependent care program.

15.6(10)c Allows former employees to change companies within the deferred compensation program only once; requires former employees to take a distribution from their company on the date selected at the time of separation.

15.6(8)e Allows terminating employees to transfer ownership of their deferred compensation policies if they have accepted employment with a city or county municipality within Iowa and the policies are placed in a like plan.

15.6(7)g States that companies shall be permanently removed from participation in the deferred compensation program for failure to comply with the provisions of the rules.

15.6(7)a Requires life insurance companies to initially have at least 30 applications in order to participate in the deferred compensation program; allows current participating companies to have less than 30 applications when approved by the Director of the Department of Personnel.

15.6(5)b Adds language that deferred compensation is exempt from federal and state income taxes until the funds are paid or made available.

15.6(4)b Adds a provision about the process for enrolling new employees in the deferred compensation program.

15.6(4)a Clarifies that open enrollment periods for the deferred compensation program are designated by the Director of the Department of Personnel.