

CHAPTER 15
STATE EMPLOYEE WHISTLEBLOWER ACTIONS

621—15.1(70A) Definitions. For purposes of this chapter, the following terms are defined as follows:

“*Merit system*” means the state employment system as defined in Iowa Code chapter 8A, subchapter 4;

“*Appointing authority*” means a chairperson or person in charge of any legislative house caucus or division of the legislative services agency, or any state agency including but not limited to, boards, bureaus, commissions, and departments, or an employee designated to act for an appointing authority.

621—15.2(70A) Filing of petition.

15.2(1) A state executive branch or general assembly employee may file a petition challenging an employment action as described in subsections 2 and 6 of Iowa Code section 70A.28 with the Board if the employee:

1. is not a merit system employee or an employee covered by a collective bargaining agreement; and
2. believes the employment action was taken as a result of the employee’s disclosure of information that was authorized pursuant to Iowa Code section 70A.28(2) or was taken as a result of the employee’s failure to inform the appointing authority that such disclosure was made.

15.2(2) A petition allowed under this rule shall be filed within 30 calendar days following the later of the effective date of the action or the date a finding is issued to the employee by the ombudsman pursuant to Iowa Code section 2C.11A.

15.2(3) The petitioning employee shall serve copies of the petition as follows:

- a. Upon the state of Iowa, or board, commission, council, office or agency thereof, by serving the director of the department of administrative services; and
- b. Upon the general assembly by serving the secretary/chairperson of the legislative counsel.

621—15.3(70A) Content of the petition. The petition shall contain the following:

1. Name, address, phone number, and email address of the petitioning employee;
2. Name of the appointing authority in which the petitioning employee was/is employed;
3. A request for a public hearing if desired. A closed hearing will be held if a public hearing is not requested;
4. A description of the employment action taken as a result of the disclosure or failure to inform the appointing authority of the disclosure;
5. A description of the disclosure protected by Iowa Code section 70A.28;
6. A statement of the desired relief;
7. The name, address, phone number, and email address of the petitioning employee's representative, if any;
8. Signature of the petitioning employee; and
9. A statement of whether the petitioning employee filed a complaint with the ombudsman, and if applicable, the date of the ombudsman's findings and a copy of the findings.

621—15.4(70A) Content of the appointing authority's answer.

15.4(1) The appointing authority shall have 15 days from the date of receipt of notice of the employee's petition to file an answer with the Board.

15.4(1) The answer shall contain the following:

1. The case number assigned to the action by the Board;
2. The names of the petitioning employee and the appointing authority;
3. A specific response admitting, denying, or explaining each allegation contained in the employee's petition;
4. Designation of and signature by the appointing authority's representative for the action; and
5. Address, phone number, and email address of the appointing authority's representative.

621—15.5(70A) Service. The parties shall serve on each other one copy of all pleadings or other documents filed with the Board. Service shall be made according to subrules 621—2.15(2) and 621—2.15(3).

621—15.6(70A) Right to a hearing. The petitioning employee has a right to an evidentiary hearing closed to the public unless a public hearing is requested by the employee. The Board may adjudicate the matter or appoint an administrative law judge to adjudicate the matter. The Board or administrative law judge shall set the time, date, and place of the hearing. The hearing shall be conducted in accordance with chapter 2 of the Board's rules, and shall be limited to the facts and issues raised by the employee's petition and the appointing authority's answer.

621—15.7(70A) Review by the Board.

- 15.7(1) The administrative law judge's proposed decision shall become final unless a timely petition for review is filed with the Board or the Board, on its own motion, determines to review the proposed decision.
- 15.7(2) A petition for the Board's review of an administrative law judge's proposed decision shall be filed with the Board within 20 days of the filing of the proposed decision.
- 15.7(3) Should the Board determine to review a proposed decision on its own motion, the Board shall provide all parties or their representative(s) of record with written notice of such determination in accordance with the service provisions of subrule 621—2.15(2).
- 15.7(4) Where a petition for review is filed or the Board determines to review a proposed decision on its own motion, the Board may also, at its own discretion:
1. Require the filing of briefs;
 2. Hear oral arguments; and
 3. Take any other action necessary for final disposition of the case.

621—15.8(70A) Burden of Proof. To be entitled to relief, the petitioning employee must establish that:

- a. the employee had disclosed information protected by Iowa Code section 70A.28(2) or failed to inform the appointing authority of such disclosure;
- b. the employee was subject to an employment action as described in subsections 2 and 6 of Iowa Code section 70A.28; and
- c. there is a causal connection between the disclosure or failure to inform the appointing authority of the disclosure and the employment action.