PUBLIC EMPLOYMENT RELATIONS BOARD[621]

[Prior to 11/5/86, Public Employment Relations Board [660]]

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CHAPTER 1
GENERAL PROVISIONS

621—1.1(20) Construction and severability. These rules shall be liberally construed to effectuate the purposes and provisions of the public employment relations Act. If any provisions of these rules are held to be invalid, it shall not be construed to invalidate any of the other provisions of these rules.

621—1.2(20) General agency description. The purpose of the public employment relations board established by the Public Employment Relations Act is to implement the provisions of the Act and adjudicate and conciliate employment related cases involving the state of Iowa and other public employers and employee organizations. For these purposes the powers and duties of the board include, but are not limited to, the following:

Determining appropriate bargaining units and conducting representation elections.

Adjudicating prohibited practice complaints and fashioning appropriate remedial relief for violations of the Act.

Adjudicating and serving as arbitrators regarding state merit system grievances and grievances arising under collective bargaining agreements between public employers and certified employee organizations.

Providing mediators and arbitrators to resolve impasses in negotiations.

Collecting and disseminating information concerning the wages, hours, and other conditions of employment of public employees.

Preparing legal briefs and presenting oral arguments in the district courts, the court of appeals and the supreme court in cases affecting the board.

[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—1.3(20) General course and method of operation. Upon receipt of a petition or complaint, the board may assign an administrative law judge to process the case. The board may determine that the petition or complaint is without basis and dismiss it without further proceedings. Petitions and complaints not dismissed are assigned for a hearing before either an administrative law judge or the board, unless the procedures for informal settlement described in these rules are followed. The administrative law judge or the board will conduct a hearing on the complaint or petition and issue a decision and order. The decisions of administrative law judges are appealable to the board, and final orders and decisions of the board are appealable to the district court under the Iowa administrative procedure Act.

621—1.4(20) Method of obtaining information and making submissions or requests. Any person may obtain information from, make submission to, or make a request of the board by writing to Chairperson, Iowa Public Employment Relations Board, 510 East 12th Street, Suite 1B, Des Moines, Iowa 50319.

621—1.5(20) Petition for rule making. Any person may file a petition with the board for the adoption, amendment or repeal of a rule. Such petition shall be in writing and shall include:

1.5(1) The name and address of the person requesting the adoption, amendment or repeal of the rule.

1.5(2) A 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 to and the relevant language of the particular portion or portions of the rule proposed to be amended or repealed.

1.5(3) A brief summary of petitioner's arguments in support of the action urged in the petition.

1.5(4) A brief summary of any data supporting the action urged in the petition.

1.5(5) 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. Within 60 days after the filing of a petition, the board shall either deny the petition in writing, stating its reasons for the denial, or initiate rule-making proceedings in accordance with Iowa Code chapter 17A.

621—1.6(20) Definitions.

1.6(1) *"Act"* as used in these rules shall mean the public employment relations Act, Iowa Code chapter 20.

1.6(2) *"Board"* as used in these rules shall mean the public employment relations board. No official board action may be taken without the concurrence of at least two members of the board; provided, however, that when for compelling reasons only two members hear an appeal of a proposed decision in a contested case and the two members do not concur, the result shall be affirmation of the proposed decision. The board, in its discretion, may delegate to board employees duties which the Act does not specifically require be performed by the board.

1.6(3) *Petitioner—complainant—respondent—intervenor.*

a. *"Petitioner"* means the party filing a petition under Iowa Code section 20.13 or 20.14.

b. *"Complainant"* means the party filing a complaint under Iowa Code section 20.11, alleging the commission of a prohibited practice.

c. *"Respondent"* means the party accused of committing a prohibited practice.

d. *"Intervenor"* means a party who voluntarily interposes in a proceeding with the approval of the board or administrative law judge.

1.6(4) *"Party"* as used in these rules shall mean any person, employee organization or public employer who has filed a petition or complaint under the Act or these rules; who has been named as a party in a complaint, petition or other matter under these rules; or whose motion to intervene has been granted by the board.

1.6(5) *"Impasse item"* means any term which was a subject of negotiations and proposed to be included in a collective bargaining agreement upon which the parties have failed to reach agreement in the course of negotiations, except as provided for in 621—6.1(20). Failure of the parties to agree upon impasse procedures shall not constitute an impasse item or compel implementation of impasse procedures.

1.6(6) *"Impasse procedures"* means either the procedures set forth in Iowa Code sections 20.20 and 20.22 or any procedures agreed upon by the parties pursuant to Iowa Code section 20.19 which are designed to result in a binding collective bargaining agreement.

1.6(7) *"Contested case"* means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under 1998 Iowa Acts, chapter 1202, section 14.

[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—1.7(20) Computation of time. Time periods established by these rules shall be computed pursuant to Iowa Code section 4.1(34).

621—1.8(20,279) Fees of neutrals. Qualified arbitrators and teacher termination adjudicators appointed from lists maintained by the board may be compensated by a sum not to exceed $1,200 per day of service, plus their necessary expenses incurred.

[**ARC 8953B**, IAB 7/28/10, effective 9/1/10; **ARC 0395C**, IAB 10/17/12, effective 11/21/12]

621—1.9(17A,20) Waiver or variance of rules.

1.9(1) *Definitions.*

a. *"Waiver or variance"* as used in this rule means action by the board which suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified individual or entity on the basis of the particular circumstances of that individual or entity. The term "waiver" as used herein shall include both a waiver and a variance.

b. *"Provision of law"* as used in this rule means a provision of law as defined by Iowa Code section 17A.2(10).

1.9(2) *Purpose and scope.* This rule creates a generally applicable process and specifies applicable criteria for granting individual waivers from rules adopted by the board in situations in which no other specifically applicable provision of law provides for waiver. To the extent another more specific

provision of law governs the issuance of a waiver from a particular rule, the more specific waiver provision shall supersede this rule with respect to any waiver of that rule.

1.9(3) *When waiver unavailable.* No waiver may be granted pursuant to this rule unless the board has jurisdiction over the rule to which the waiver request applies and the requested waiver is consistent with any applicable statute, constitutional provision or other provision of law. The board may not waive requirements created or duties imposed by statute.

1.9(4) *Criteria for waiver.* In response to a petition filed in accordance with this rule the board may, in its sole discretion, issue an order waiving the requirements of a rule or rules if the board finds, based on clear and convincing evidence, all of the following:

a. The application of the rule would pose an undue hardship on the entity or individual for whom the waiver is requested;

b. The waiver of the rule in the particular case would not prejudice the substantial legal rights of any individual or entity;

c. The provisions of the rule or rules to which the waiver request applies are not specifically mandated by statute or other provision of law; and

d. Substantially equal protection of public health, safety and welfare will be afforded by a means other than that prescribed in the particular rule or rules to which the waiver request applies.

1.9(5) *Filing of petition.* All petitions requesting a waiver must be filed personally or by mail with the board at its offices at 510 East 12th Street, Suite 1B, Des Moines, Iowa 50319. If the petition relates to a pending contested case proceeding or a proceeding pending before the agency which could culminate in a contested case proceeding, the petition shall be filed in and bear the caption of that proceeding. The board shall acknowledge the filing of a petition by providing the petitioner with a file-stamped copy.

1.9(6) *Content of petition.* A petition requesting a waiver shall be in writing and shall include the following information where applicable and known to the petitioner:

a. The name, address and telephone number of the individual or entity requesting the waiver and of the individual's or entity's authorized representative, if any.

b. A citation of the specific rules, rule or part thereof from which a waiver is requested.

c. A description of the precise scope and duration of the waiver requested.

d. A statement of the relevant facts the petitioner believes would justify a waiver under each of the criteria specified in subrule 1.9(4), together with an affirmation signed by the petitioner attesting to the accuracy of the facts asserted in the petition.

e. A history of any prior contacts within the last five years by or between the board or its representatives and the petitioner concerning the matter which would be affected by the requested waiver, including references to all past or pending agency proceedings relating to the matter.

f. Any information known to the petitioner regarding the board's treatment of waiver requests by similarly situated individuals or entities under similar circumstances.

g. The name, address and telephone number of any other governmental agency or entity which also regulates the activity in question or which might be affected by the granting of the requested waiver.

h. The name, address and telephone number of each individual or entity, public or private, which might be adversely affected by the granting of the requested waiver.

i. The name, address and telephone number of each individual with knowledge of the relevant facts relating to the requested waiver.

j. Signed releases of information authorizing individuals with knowledge of relevant facts relating to the requested waiver to furnish the board with such information.

1.9(7) *Timing and effect of petition.* If the petition seeks waiver of a time requirement specified by a rule, it must be filed as soon as possible but, in every case, before the expiration of the time period sought to be waived. The filing of a petition does not itself stay the operation of any agency rule, including the rule which is the subject of the petition.

1.9(8) *Service of petition.* The petitioner shall, within ten days of the filing of the petition, serve a copy thereof, in accordance with the provisions of rule 621—2.15(20), upon all entities or individuals named in or potentially affected by the petition or to whom notice is required by any provision of law

and shall file proof of such service with the board. The board may also give notice of the petition to other individuals or entities.

1.9(9) *Additional information.* Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner or other individuals or entities relating to the petition and the surrounding circumstances. Unless the petition is filed in a pending contested case proceeding, the board may, on its own motion or at the request of the petitioner or other interested individual or entity, schedule and conduct a telephonic or in-person meeting with the petitioner to discuss the request and surrounding circumstances and may include other interested individuals or entities.

1.9(10) *Procedure in contested cases.* The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings shall apply to petitions for a waiver which are filed in a pending contested case proceeding, but shall otherwise apply to proceedings on such petitions only when required by statute or when the board so provides by rule or order.

1.9(11) *Board discretion.* The final decision to grant or deny a waiver is vested in the board and shall be made wholly at its discretion following its consideration of all relevant factors, including the unique, individual circumstances set out in the petition. When the rule to which the petition relates establishes administrative deadlines, the board's consideration shall include a balancing of the individual circumstances of the petitioner with the board's policy favoring the uniform treatment of all similarly situated individuals or entities.

1.9(12) *Burden of persuasion.* The petitioner bears the burden of demonstrating, by clear and convincing evidence, that the board should exercise its discretion to grant a waiver pursuant to this rule.

1.9(13) *Ruling on petition.* The board shall issue a written ruling which includes an order granting or denying the requested waiver. The ruling shall contain a statement of the relevant facts and reasons upon which the order is based and a description of the precise scope and duration of any waiver granted.

1.9(14) *Time for ruling.* The board will issue its ruling as soon as practicable, but shall do so within 120 days of its receipt of the petition unless the petitioner agrees to a later date. However, if the petition was filed in a contested case proceeding or in a pending agency proceeding which has subsequently become a contested case proceeding, ruling on the petition may be withheld until the issuance of the final agency decision in that case.

1.9(15) *Deemed denial of petition.* Failure by the board to grant or deny a petition within the time required by subrule 1.9(14) shall be deemed a denial of the petition. However, notwithstanding such deemed denial, the board shall remain responsible for issuing a ruling pursuant to subrule 1.9(13).

1.9(16) *Scope and conditions of waiver.* Any waiver granted shall provide the narrowest exception possible to the provisions of the rule being waived. The board may include as a part of its granting of a waiver such conditions as it finds desirable to protect the public welfare or to achieve through alternative means the objectives of the particular rules, rule or part thereof being waived. A waiver shall not be permanent unless the petitioner has shown that a temporary waiver would be impracticable. Should a temporary waiver be granted, there is no automatic right to its renewal. A waiver may be renewed, in the sole discretion of the board, upon the filing and service of a petition for renewal which complies with the provisions of this rule and a finding by the board that grounds for a waiver continue to exist.

1.9(17) *Service of ruling.* Within seven days of its issuance, the board's ruling on the petition shall be served by the board by ordinary mail upon the petitioner, any entity or individual to whom the ruling pertains and any other individuals or entities entitled to notice pursuant to any other provision of law.

1.9(18) *Indexing and public availability.* The board shall maintain a record of all rulings on petitions filed pursuant to this rule, which shall be indexed and available for public inspection at the board's offices subject to the provisions of Iowa Code section 17A.3. Because petitions and rulings may contain information which the board is authorized or required to keep confidential, the board may redact such confidential information from such petitions and rulings prior to public inspection.

1.9(19) *Effect of waiver.* Any waiver granted by the board shall constitute a defense, within the terms and the specific facts set forth therein, for the entity or individual to whom the waiver pertains in any proceeding in which the rule in question is sought to be invoked. The waiver is effective only as to the entity or individual to whom it was granted, is not assignable and does not inure to the benefit of the individual's or entity's successor(s) in interest.

1.9(20) *Cancellation of waiver.* A waiver granted pursuant to this rule may be canceled, withdrawn or modified if, after appropriate notice and hearing, the board finds:

a. An entity or individual who requested or was the subject of the waiver withheld from or knowingly misrepresented to the board material facts relevant to the propriety or desirability of the waiver; or

b. The alternative means for ensuring that the public welfare will be adequately protected and the purposes of the rule or set of rules waived will be adequately served after issuance of the waiver have been demonstrated to be insufficient, or

c. The subject of the waiver has failed to comply with all of the conditions specified in the order granting the waiver.

1.9(21) *Violations.* A violation of a condition specified in an order granting a waiver shall be treated as a violation of the particular rules, rule or portion thereof waived by the board. As a result, the recipient of a waiver under this rule who violates such a condition may be subject to the same remedies or penalties as an entity or individual who violates the rules, rule or portion thereof waived by the board.

1.9(22) *Appeals.* Any intra-agency or judicial review of rulings granting or denying waivers pursuant to this rule shall be in accordance with other applicable board rules and Iowa Code chapter 17A.

1.9(23) *Summary reports.* All orders granting or denying a waiver pursuant to this rule shall be summarized in semiannual reports which comply with and are distributed pursuant to the requirements of Iowa Code section 17A.9A.

These rules are intended to implement Iowa Code section 17A.9A and chapters 20 and 279.

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CHAPTER 2
GENERAL PRACTICE AND HEARING PROCEDURES

621—2.1(20) Hearing—time and place—administrative law judge. A member of the board or an administrative law judge shall fix the time and place for all hearings. Hearings may be conducted by the board, or by one or more of its members, or by an administrative law judge designated by the board. At their discretion the board or administrative law judge may order a prehearing conference.

621—2.2(20) Notice of hearing—contents. Written notice of a contested case hearing shall be delivered by the board to all parties by ordinary mail. The notice shall include:

2.2(1) A statement of the date, time, place and nature of the hearing.

2.2(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

2.2(3) A reference to the particular sections of the statutes and rules involved.

2.2(4) A short and plain statement of the matters asserted.

621—2.3(20) Default.

2.3(1) If a party fails to appear or participate in a contested case hearing after proper service of notice, the presiding officer may, if no continuance is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

2.3(2) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case hearing become final agency action unless, within 20 days after the mailing of the decision to the parties, a motion to vacate pursuant to subrule 2.3(3) is filed and served on all parties or, if the decision is a proposed decision within the meaning of Iowa Code section 17A.15(2), an appeal from the decision to the board on the merits is filed within the time provided by rule 621—9.2(20) or, in cases brought pursuant to Iowa Code section 19A.14, a petition for review by the board on the merits is filed within the time provided by rule 621—11.8(19A,20).

2.3(3) A motion to vacate may be filed only by a party who failed to appear for the hearing and against whom the decision was rendered. The motion must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to and filed and served with the motion.

2.3(4) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to the existence of good cause is on the moving party. Adverse parties may, within ten days of the service of the motion and supporting affidavit(s) upon them, file a response to the motion. Adverse parties shall be allowed to conduct discovery as to the issue of the existence of good cause and to present evidence on the issue prior to a ruling on the motion, if a request to do so is included in that party's response.

2.3(5) The time for the filing of an intra-agency appeal from or petition for review of a decision for which a timely motion to vacate has been filed is stayed pending the issuance of the presiding officer's ruling on the motion to vacate.

621—2.4(20) Intervention and additional parties. Any interested person may request intervention in any proceeding before the public employment relations board. An application for intervention shall be in writing, except that applications made during a hearing may be made orally to the hearing officer, and shall contain a statement of the reasons for such intervention. When an application for intervention is filed regarding a petition for bargaining representative determination, the rules set forth in 621—subrules 4.3(2), 4.4(4) and 5.1(4) shall apply.

Where necessary to achieve a more proper decision, the board or administrative law judge may, on its own motion or the motion of any party, order the bringing in of additional parties. When so ordered the board shall serve upon such additional parties all relevant pleadings, and allow such parties a reasonable time to respond thereto where appropriate.

621—2.5(20) Continuance. Hearings or proceedings on any matter may be continued by order of the board or an administrative law judge, with the reasons therefor set out in said order, and notice thereof to all parties. Parties may, upon written application to the board prior to commencement of the hearing or other proceeding, or oral application to the administrative law judge during the hearing, but not ex parte, request a continuance. A continuance may be allowed for any cause not growing out of the fault or negligence of the applicant, which satisfies the board or administrative law judge that a proper decision or result will be more nearly obtained by granting a continuance. The continuance may also be granted if agreed to by all parties and approved by the board or administrative law judge.

621—2.6(20) Appearances and conduct of parties. Any party may appear and be heard on its own behalf, or by its designated representative. Designated representatives shall file a notice of appearance with the board for each case in which they appear for a party. Filing of pleadings on behalf of a party shall be equivalent to filing a notice of appearance. All persons appearing in proceedings before the board shall conform to the standard of ethical conduct required of attorneys before the courts of the state of Iowa. If any person refuses to conform to such standards, the board may decline to permit such person to appear in any proceeding.

621—2.7(20) Evidence—objections. Rules of evidence shall be those set forth in the Administrative Procedure Act. Any objection with respect to the conduct of the hearing, including an objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

621—2.8(20) Order of procedure. The employer shall present its evidence first in unit determination hearings. The complainant shall present its evidence first and shall have the burden of proof in prohibited practice hearings. Intervenors shall follow the parties in whose behalf the intervention is made; if not made in support of a principal party, the administrative law judge shall designate at what stage such intervenors shall be heard. The order of other parties shall be determined by the administrative law judge. All parties shall be allowed cross-examination and an opportunity for rebuttal. At any stage of the hearing or after the close of the hearing but prior to decision, the board or administrative law judge may call for further evidence to be presented by the party or parties concerned.

621—2.9(20) Amendments. A petition, complaint or answer may be amended for good cause shown, but not ex parte, upon motion at any time prior to the decision. Allowance of such amendments, including those to conform to the proof, shall be within the discretion of the board or administrative law judge. The board or administrative law judge may impose terms, or grant a continuance with or without terms, as a condition of such allowance. Such motions prior to hearing shall be in writing filed with the board, and the moving party shall serve a copy thereof upon all parties by ordinary mail.

621—2.10(20) Briefs and arguments. At the discretion of the board or administrative law judge, oral arguments may be presented by the parties with such time limits as determined by the board or administrative law judge. Briefs may be filed in such order and within such time limits as set by the board or administrative law judge.

621—2.11(20) Sequestration of witnesses. Upon its own motion, or the motion of any party, the board or administrative law judge may order the sequestration of witnesses in any proceeding.

621—2.12(20) Subpoenas.

2.12(1) *Attendance of witnesses.* The board, an administrative law judge or an arbitrator selected pursuant to Iowa Code section 20.22 shall issue subpoenas to compel the attendance of witnesses and the production of relevant records upon written application of any party filed with the presiding officer prior to the hearing or oral motion at the hearing. The party requesting subpoenas shall serve the subpoenas and notify the presiding officer in writing prior to hearing, or orally at the time of hearing, of the names

and addresses of the witnesses or the person or party having possession of the requested documents. Where a subpoena has been served more than seven days prior to the hearing, a party may move to quash the subpoena not less than three days prior to the hearing. Subpoenas for production of records shall list with specificity the items sought for production and the name and address of the person or party having possession or control thereof. A written motion to quash subpoenas may be filed with the presiding officer issuing the subpoenas, and the moving party shall serve copies upon all parties of record.

2.12(2) *Witness fees.* Witnesses shall receive from the subpoenaing party fees and expenses as are prescribed by statute for witnesses in civil actions before a district court. Witnesses may, however, waive such fees and expenses.

2.12(3) *Service of subpoenas.* Subpoenas shall be served as provided in Iowa Code section 622.63.
[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—2.13(20) Form of documents. All documents, other than forms provided by the board, which relate to any proceeding before the board should be typewritten and bear the docket number of the proceeding to which it relates. Such documents may be single- or double-spaced at the option of the submitting party.

621—2.14(20) Captions. The following captions for documents other than forms provided by the board are suggested for use in practice before the board:

2.14(1) In prohibited practice proceedings:

Before the Public Employment Relations Board

XYZ, Complainant and J. Doe, Respondent	[name of document] Case No. 1234

2.14(2) In proceedings pursuant to a petition:

Before the Public Employment Relations Board

In the matter of XYZ, Public Employer and J. Doe, Petitioner	[name of document] Case No. 1234

621—2.15(20) Service of pleadings and other papers.

2.15(1) *Service—upon whom made.* Whenever under these rules service is required to be made upon a party, such service shall be as follows:

a. Upon any city, or board, commission, council or agency thereof, by serving the mayor or city clerk.

b. Upon any county, or office, board, commission or agency thereof, by serving the county auditor or the chairperson of the county board of supervisors.

c. Upon any school district, school township, or school corporation by serving the presiding officer or secretary of its governing body.

d. Upon the state of Iowa, or board, commission, council, office or agency thereof, by serving the governor or the director of personnel.

e. Upon the state judicial department by serving the state court administrator.

f. Upon any other governing body by serving its presiding officer, clerk or secretary.

g. Upon an employee organization by serving the person designated by the employee organization to receive service pursuant to 621—subrule 8.2(2), or, by service upon the president or secretary of the employee organization.

h. Upon any other person by serving that person or that person's attorney of record.

2.15(2) *Service—how made.* Except as provided in rules 621—3.4(20) and 621—5.7(20) and subrule 2.12(3) and 621—subrule 4.2(2), whenever these rules require service upon any person or party the service shall be sufficient if made by ordinary mail.

2.15(3) *Proof of service.* Where service is by restricted certified mail or personal service, the serving party shall forward the return receipt or return of service to the board for filing. Where service by ordinary mail is permitted under these rules, the serving party shall include the following certificate on the original document filed with the board:

"I hereby certify that on _____ I sent a copy of the foregoing matter to
(date)
the following parties of record or their representatives at the addresses indicated, by depositing same in a United States mail receptacle with sufficient postage affixed.

(Signed) _____"
(party or representative)

621—2.16(20) Consolidation. Upon application of any party or upon its own motion, the board or an administrative law judge may consolidate for hearing any cases which involve common questions of law or fact.

621—2.17(20) Prohibition against testimony of mediators, arbitrators and board employees. Except as authorized by Iowa Code section 20.31, a mediator, arbitrator, administrative law judge, member of the board or other officer or employee of the board shall not testify on behalf of any party to a prohibited practice, representation or impasse resolution proceeding, pending in any court or before the board, with respect to any information, facts, or other matter coming to that individual's knowledge through a party or parties in an official capacity as a resolver of disputes.
[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—2.18(20) Delivery of decisions and orders. Decisions and orders of the board or administrative law judge shall be delivered to the parties by ordinary mail.

621—2.19(20) Stays of agency action. Application for stays of agency actions must be filed with the board and served upon all interested parties pursuant to rule 621—2.15(20). The board may in its discretion and on such terms as it deems proper, grant or deny an application.

621—2.20(20) Ex parte communications.

2.20(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, a presiding officer in a contested case or in proceedings on a petition for declaratory order in which there are two or more parties, shall not communicate directly or indirectly with any party, representative of any party or any other person with a direct or indirect interest in such case, nor shall any such party, representative or person communicate directly or indirectly with the presiding officer concerning any issues of fact or law in that case, except upon notice and opportunity for all parties to participate. Nothing in this provision precludes the presiding officer, without such notice and opportunity for all parties to participate, from communicating with members of the agency or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish or modify the evidence in the record. The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated"

does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another's investigative work product in the course of determining whether to initiate a proceeding or exposure to factual information while performing other agency functions, including fact-gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as a presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202.

2.20(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and with the filing of the petition in a declaratory order proceeding in which there are two or more parties, and continue for as long as the case is pending.

2.20(3) Communications with a presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties prior to seeking to continue hearings or other deadlines.

2.20(4) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case or proceedings on a petition for declaratory order in which there are two or more parties shall disclose to all parties and place on the record of the pending matter all such written communications, all written responses to the communication, and a memorandum stating the substance of all such oral and other communications received, all responses made and the identity of each person from whom the presiding officer received a prohibited ex parte communication. The presiding officer shall notify all parties that these matters have been placed on the record. Any party desiring to rebut the prohibited communication will be allowed the opportunity to do so upon written request filed within ten days after the giving of notice that the matters have been placed on the record.

2.20(5) If the presiding officer determines that the effect of a prohibited ex parte communication is so prejudicial that it cannot be cured by the procedure specified in subrule 2.20(4), the presiding officer shall be disqualified and the portions of the record pertaining to the communication shall be sealed by protective order.

2.20(6) Promptly after being assigned to serve as presiding officer, either individually, on a hearing panel or on an intra-agency appeal, a presiding officer shall disclose to all parties any material factual information received through ex parte communication prior to such assignment, unless the factual information has or soon will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery.

2.20(7) Sanctions for prohibited communications.

a. The agency and any party may report any violation of this rule to appropriate authorities for any disciplinary proceedings provided by law.

b. The presiding officer may render a proposed decision or, in the case of the board or a majority thereof, a final decision, imposing appropriate sanctions for violations of this rule including a decision against the offending party, censure, suspension, or revocation of the privilege to practice before the agency.

c. Alleged violations of ex parte communication prohibitions by agency personnel shall be reported to the chairperson for the possible imposition of sanctions including censure, suspension, dismissal or other disciplinary action.

621—2.21(20) Transcripts of record. Oral proceedings in all hearings shall be recorded by a certified shorthand reporter or by mechanized means. The board does not furnish transcriptions, but oral proceedings shall be transcribed at the expense of any party requesting the transcription. Arguments on motions, oral arguments on appeal to the board, and arguments made in declaratory order and expedited negotiability dispute proceedings need not be recorded.

621—2.22(20) Dismissal. The board or an administrative law judge may dismiss cases for want of prosecution if, after receiving notice by certified mail, the parties do not show good cause why the case should be retained.

These rules are intended to implement Iowa Code chapter 20.

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CHAPTER 3
PROHIBITED PRACTICE COMPLAINTS

621—3.1(20) Filing of complaint. A complaint that any person, employee, organization or public employer has engaged in or is engaging in a prohibited practice under the Act may be filed by any person, employee organization or public employer. A complaint shall be in writing and signed according to these rules, and may be on a form provided by the board. The complaint shall be filed with the board within 90 days following the alleged violation.

621—3.2(20) Contents of complaint. The complaint shall include the following:

3.2(1) The name, address and organizational affiliation, if any, of the complainant, and the title of any representative filing the complaint.

3.2(2) The name and address of the respondent(s) and any other party named therein.

3.2(3) A clear and concise statement of the facts constituting the alleged prohibited practice, including the names of the individuals involved in the alleged act, the dates and places of the alleged occurrence, and the specific section(s) of the Act alleged to have been violated.

621—3.3(20) Clarification of complaint. The board may, on its own motion or motion of the respondent, require the complainant to make the complaint more specific.

621—3.4(20) Service of complaint. The complainant shall, within a reasonable time following the filing of a complaint, serve the respondent(s) with a copy of the complaint in the manner of an original notice or by restricted certified mail, return receipt requested. Such service shall be upon the person designated for service by subrule 2.15(1), and the complainant shall file proof thereof with the board.

621—3.5(20) Answer to complaint.

3.5(1) *Filing and service.* Within ten days of service of a complaint, the respondent(s) shall file with the board a written answer to the complaint, and cause a copy to be delivered to the complainant by ordinary mail to the address set forth in the complaint. The answer shall be signed by the respondent(s) or the designated representative of the respondent(s).

3.5(2) *Extension of time to answer.* Upon application and good cause shown, the board may extend the time to answer to a time and date certain.

3.5(3) *Contents of answer.* The answer shall include a specific admission or denial of each allegation of the complaint or, if the respondent is without knowledge thereof, the respondent shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation, but shall fairly meet the circumstances of the allegations. The answer shall include a specific statement of any affirmative defense. Matters contained in the answer shall be deemed denied by the complainant.

3.5(4) *Admission by failure to answer.* If the respondent fails to file a timely answer, such failure may be deemed by the board to constitute an admission of the material facts alleged in the complaint and a waiver by the respondent of a hearing.

621—3.6(20) Withdrawal of complaint. A complaint or any part thereof may be withdrawn with the consent of the board, and upon conditions the board may deem proper. Withdrawal shall constitute a bar to refiling the same complaint or part thereof by the complainant.

621—3.7(20) Amendment of complaint or answer. Amendments to a party's complaint or answer shall be governed by rule 621—2.9(20).

621—3.8(20) Investigation of complaint. The board or its designee may conduct a preliminary investigation of the allegations of any complaint. In conducting such investigation, the board may require the complainant and respondent to furnish evidence, including affidavits and other documents if appropriate. If a review of the evidence shows that the complaint has no basis in fact, the complaint may be dismissed with prejudice by the board and the parties notified. Board employees involved in

investigations under this rule shall not act as administrative law judges in any proceeding related to the investigation.

621—3.9 Rescinded, effective December 22, 1976.

621—3.10(20) Informal disposition. Any party seeking to settle a controversy which may result in a contested case may request assistance from the board. The board may schedule meetings between the parties and assist the parties in reaching a settlement of the dispute; provided, however, that no party shall be required to settle the controversy pursuant to this rule. Any prohibited practice case commenced with the board may be informally settled by stipulation, agreed settlement, consent order, default, or by any other method agreed upon by the parties, subject, however, to approval by the board.

621—3.11(20) Evidence of settlement negotiations. Evidence of proposed offers of settlement of a prohibited practice complaint shall be inadmissible at the hearing thereon.

These rules are intended to implement Iowa Code chapter 20.

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CHAPTER 4
BARGAINING UNIT AND BARGAINING REPRESENTATIVE DETERMINATION

621—4.1(20) General procedures.

4.1(1) *Separate or combined petitions.* Request for bargaining unit determination and bargaining representative determination shall be by petitions which may be filed separately. Where a request has been made to a public employer to bargain collectively with a designated group of public employees and the board has not previously determined the bargaining unit, the petitions shall be filed jointly or on a combined form provided by the board.

4.1(2) *Intervention and additional parties.* See rule 2.4(20).

4.1(3) *Withdrawal of petitions.* Petitions may be withdrawn only with the consent of the board. Petitions withdrawn after the commencement of a hearing, or withdrawn after direction of an election where no hearing was conducted, may not be refiled by the withdrawing party for a period of six months following the board order permitting withdrawal.

621—4.2(20) Unit determination.

4.2(1) *Content of petition.* A petition for bargaining unit determination shall be on a form provided by the board and shall be filed by delivery to the board. The petition shall contain an identification and description of the proposed unit.

4.2(2) *Notice to parties.* Upon receipt of a proper petition, the board shall serve copies thereof upon other interested parties by certified mail, return receipt requested. Upon the filing of a petition for unit determination, the board shall furnish to the employer a notice to employees, giving notice that the petition has been filed and setting forth the rights of employees under the Act. Notices shall be posted by the public employer in conspicuous places customarily used for the posting of notices to employees.

4.2(3) *Notice of hearing.* The board or administrative law judge shall issue a notice of hearing by ordinary mail to all interested parties setting forth the time, date and place of the hearing and any other relevant information. The board or administrative law judge shall provide additional copies of the notice of hearing to the public employer, which shall be posted by the public employer in conspicuous places customarily used for the posting of information to employees.

4.2(4) *Intervention.* See rule 2.4(20).

4.2(5) *Professional and nonprofessional elections.* If, in any case, the board should determine that professional employees and nonprofessional employees could be represented in a single bargaining unit, the board shall direct and supervise an election among such employees to determine whether they wish to be represented in a single or in separate bargaining units. The election shall be by secret ballot under conditions as the board may prescribe. Absentee ballots shall be as provided for in 5.2(5). The elections may, in the discretion of the board, be conducted in whole or in part by mail ballots provided for in 5.1(3). A majority affirmative vote of those voting in each category shall be necessary to include professional and nonprofessional employees within the same bargaining unit. The rules concerning voting lists, as set forth in 5.1(2), shall apply.

4.2(6) *Informal settlement of bargaining unit determination.* Cases on bargaining unit determination may be informally settled in the following manner:

a. The petitioning party shall prepare a stipulation setting forth in detail the composition of the bargaining unit as agreed upon by all parties. The stipulation shall be signed by the authorized representative of the parties involved and shall be forwarded to the board for informal review and tentative approval. In the event the parties agree to a combined unit of professional and nonprofessional employees, the stipulation shall set forth both those job classifications included within the professional category and those job classifications included within the nonprofessional category. If the board fails to tentatively approve the stipulation, the board shall notify the parties and, unless the parties amend the stipulation in a manner to gain tentative approval of the board, the matter shall proceed to hearing. If the board tentatively approves the stipulation, the board shall prepare a public notice of proposed decision and shall deliver copies to the parties. The public employer shall post the notice of the proposed

decision, for a period of not less than one calendar week, in a prominent place in the main office of the public employer accessible to the general public and in conspicuous places customarily used for the posting of information to employees. The public employer shall also have copies of the proposed decision available for distribution to the public upon request.

b. Notice of the proposed decision shall be on a form provided by the board which shall identify the parties; specify the terms of the proposed decision; list the names, addresses and telephone numbers of the parties or their authorized representatives to whom inquiries by the public should be directed; and, further, state the date by which written objection to the proposed decision must be filed with the board and the address to which such objections should be sent.

c. Objections to the proposed decision must be filed with the board by the date posted in the notice of proposed decision. Objections shall be in writing and shall set out the specific grounds of objection. The objecting party must identify itself and provide a mailing address and telephone number. The board shall promptly advise the parties of the objections and make any investigation deemed appropriate. If the board deems the objections to be of substance, the parties may, with board approval, amend their proposed decision to conform therewith, and the objecting party shall be notified by the board of the amendment. If the objections cannot be informally resolved, they may be dismissed or resolved at hearing.

d. Final board decision on the informed settlement shall be reserved until expiration of the time for filing of objections. If no objections have been filed; or if filed objections have been resolved through amendment of the proposed decision; or if filed objections, after inquiry by the board, were found to be frivolous, the board shall endorse the proposed decision as final.

e. If interested parties are unable to informally settle a case on bargaining unit determination within 15 days of service of a petition, the board or administrative law judge may order any interested party to file with the board its proposed unit description.

621—4.3(20) Bargaining representative determination (election petitions).

4.3(1) *Form of petition.* A petition for bargaining representative determination (election petition) shall be on a form provided by the board and shall be filed by delivery to the board. These petitions shall be of three types:

a. A certification petition, filed by an employee organization requesting that through an election it be certified as the exclusive bargaining representative in an appropriate unit of public employees. The name of the employee organization which appears on the petition, or the petition as amended, shall be the name which appears on the election ballot.

b. A decertification petition, filed by an employee requesting an election to determine whether a certified bargaining representative does, in fact, represent a majority of the employees in the bargaining unit, and

c. A representation petition, filed by a public employer requesting an election to determine the bargaining representative, if any, of the employees in the bargaining unit.

4.3(2) *Showing of interest—certification—decertification—intervention.* Whenever a petition for certification or decertification is filed, or whenever intervention is requested for the purpose of being placed on an election ballot, the petitioner or intervenor shall submit therewith evidence that the petition or application for intervention is supported by employees in the unit in the following percentages: Thirty percent for certification or decertification and 10 percent for intervention in election proceedings. In petitions for certification or applications for intervention, such interest showing shall be dated and signed not more than one year prior to its submission; shall contain the job classification of the signatory; and shall contain a statement that the signatory is a member of the employee organization or has authorized it to bargain collectively on the signatory's behalf. In appropriate cases, an authenticated dues checkoff list may be used for this purpose. In petitions for decertification, evidence of interest shall be as provided above and shall further contain a statement that the signatory no longer wishes to be represented by the certified employee organization. When a representation petition is filed by an employer, no show of interest will be required.

4.3(3) *Determination of showing of interest.* The public employer shall, within seven days of receipt of notice of a certification petition, submit to the board a list of the names and job classifications of the employees in the unit requested by the petitioner. The board shall administratively determine the sufficiency of the showing of interest upon receipt of the list. This determination, including the identification and number of signers of the showing of interest, shall be confidential and not subject to review, and parties other than the party submitting the interest showing shall not be entitled to a copy or examination of the showing of interest. If the employer fails to furnish the list of employees, the board shall determine the sufficiency of the showing of interest by whatever means it deems appropriate. In election proceedings where the petitioner withdraws its petition pursuant to subrule 4.1(3), in the presence of an intervenor, the election shall not be conducted unless the intervenor produces a 30 percent showing of interest within a time period determined by the board.

4.3(4) *Notice.* Upon the filing of a petition for certification, decertification or representation, the board shall furnish to the employer a notice to employees, giving notice to employees that an election petition has been filed and setting forth the rights of employees under the Act. Such notices shall be posted by the public employer in conspicuous places customarily used for the posting of information to employees.

4.3(5) *Direction of election.* Whenever an election petition is filed which conforms to these rules and the Act and the appropriate bargaining unit has been previously determined, an election shall be directed and conducted.

4.3(6) *Intervention.* See 4.1(2).

621—4.4(20) Concurrent (combined) petitions.

4.4(1) *When to file.* A combined petition for both bargaining unit determination and bargaining representative determination shall be filed whenever a question of representation exists and the bargaining unit has not been previously determined by the board.

4.4(2) *Content of petition.* A combined petition for unit determination and representative determination (election) shall be on a form provided by the board and shall be filed by delivery to the board.

4.4(3) *Notice of petition, hearing, and notice to employees.* Upon receipt of a combined petition, notice shall be as provided in 4.2(2), 4.2(3) and 4.3(4).

4.4(4) *Showing of interest.* Showing of interest shall be as provided in 4.3(2) and 4.3(3). Should the board determine an appropriate unit different than that requested, any employee organization affected may request a reasonable period of time to submit additional evidence of interest sufficient to satisfy the requirements of the Act.

4.4(5) *Scope of hearing.* Hearings on combined petitions shall resolve all issues with regard to both bargaining unit determination and bargaining representative determination.

4.4(6) *Intervention.* See 4.1(2).

4.4(7) *Professional and nonprofessional elections.* See 4.2(5).

621—4.5(20) Unit reconsideration. A petition for reconsideration of a board-established bargaining unit may be filed by an employee organization, public employer, or an employee of the public employer. This petition may be filed only in combination with an election petition. The rules set forth in 4.1(20), 4.2(20), 4.3(20) and 4.4(20) shall apply, except that the board may investigate the petition and, if it determines that the petitioner has not established grounds that the previous board determination of the bargaining unit is inappropriate, the board may dismiss the petition. A petition for reconsideration of a board-established bargaining unit covering state employees may not be filed until after one year of the initial unit determination.

621—4.6(20) Amendment of unit.

4.6(1) *Petition.* A petition for amendment of a board determined bargaining unit may be filed by the public employer or the certified employee organization. The petition shall contain:

a. Name and address of the public employer and the employee organization.

b. An identification and description of the proposed amended unit.

c. The names and addresses of any other employee organizations which claim to represent any employees affected by the proposed amendment or a statement that the petitioner has no knowledge of any other such organization.

d. Job classifications of the employees as to whom the issue is raised and the number of employees, if any, in each classification.

e. A specific statement of the petitioner's reasons for seeking amendment of the unit and any other relevant facts.

4.6(2) *Procedure—decision.* Insofar as applicable, the rules set forth in 4.2(20) shall apply, except that the board may conduct an investigation and issue a decision and order without hearing.

4.6(3) *Elections; when required.* A question of representation exists, and the board will conduct a representation election, if the job classification(s) sought to be amended into a bargaining unit was in existence at the time the employee organization was certified to represent the bargaining unit and the job classification(s) separately constitutes an appropriate bargaining unit.

621—4.7(20) Unit clarification. A petition to clarify the inclusion or exclusion of job classifications or employees in a board determined bargaining unit may be filed by the public employer, an affected public employee, or the certified employee organization. Such petition must be in the absence of a question of representation. Insofar as applicable, the procedures for such filing shall be as provided in subrules 4.6(1) and 4.6(2).

621—4.8(20) Amendment of certification.

4.8(1) A petition for the amendment of a certified employee organization's certification to reflect an act or occurrence affecting the organization, such as a name change or merger, must be accompanied by affidavit(s) establishing that:

a. The act or occurrence which the requested amendment would reflect was authorized by and accomplished in accordance with the certified employee organization's constitution and bylaws, which provided members with adequate due process, and

b. Substantial continuity of representation has been maintained.

4.8(2) When a petition for amendment of certification is filed pursuant to this rule, the board shall mail copies of a public notice of proposed decision to the parties. The public employer shall post the notice of proposed decision, for a period of not less than one calendar week, in a prominent place in the main office of the public employer accessible to the general public and in conspicuous places customarily used for the posting of information to employees. The public employer shall also have copies of the proposed decision available for distribution to the public upon request.

a. Notice of the proposed decision shall identify the parties; specify the terms of the proposed decision; list the names, addresses and telephone numbers of the parties or their authorized representatives to whom inquiries by the public should be directed, and state the date by which written objection to the proposed decision must be filed with the board and the address to which the objections should be sent.

b. Objections to the proposed decision must be filed with the board by the date posted in the notice of proposed decision. Objections shall be in writing and shall set out the specific grounds of objection. The objecting party must identify itself and provide a mailing address and telephone number. The board shall promptly advise the parties of the objections and make any investigation deemed appropriate. When an objection is raised the board may investigate and dismiss the objection or conduct a hearing pursuant to 621—Chapter 2.

c. Final board decision shall be reserved until expiration of the time for filing objections. If no objections have been filed, the board may endorse the proposed decision as final.

These rules are intended to implement Iowa Code chapter 20.

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CHAPTER 5
ELECTIONS

621—5.1(20) General procedures.

5.1(1) *Notice of election.* Upon direction of an election, notices of election, in a form provided by the board, shall be posted by the public employer in conspicuous places customarily used for the posting of information to employees. Such notices shall contain a sample ballot and shall set forth the date, time, place and purpose of the election, and such additional information as the board may deem appropriate.

5.1(2) *Eligibility—eligibility list.* Eligible voters are those employees who:

a. Were employed in the bargaining unit during the payroll period immediately preceding the direction of election unless another date is agreed upon by the parties and the board, and

b. Are employed in the bargaining unit on the date of the election. When the election is conducted in whole or in part by mail ballot or is conducted on more than one date, the date of the election shall be the date on which the ballots are to be counted. Where the board issues an order defining the appropriate bargaining unit and an election petition is pending, or in the case of a combined petition, the board shall further order the public employer to submit to the board within seven days an alphabetical list of the names, addresses and job classifications of the employees in the appropriate unit. Where such a list has previously been submitted to the board, it may be utilized under this rule; provided that additions or deletions of employees, changes in address or job classifications, or other changes shall be submitted to the board to reflect the current status of employees in the bargaining unit. The list required by this rule shall be provided by the board to all parties at least ten days prior to the date of the election and shall become the official voting list for any election conducted. The list may further be amended by agreement of the parties immediately prior to the election. In the case of a combined professional and nonprofessional unit, the public employer shall submit lists of employees in the professional category and employees in the nonprofessional category.

5.1(3) *Mail ballots.* The board may, in its discretion, conduct an election in whole or in part by mail ballot. In such cases, the board shall send by ordinary mail an official ballot and a postpaid return-addressed secret envelope to each eligible voter and direct a date by which voted ballots must be received by the board to be counted. The board shall also set a time and place for the counting of such ballots, at which time the parties to the election shall be entitled to be present and challenge for good cause the eligibility of any voter. Mail ballots sent to eligible voters shall consist of a ballot, a secret envelope in which said ballot is to be inserted, and an outer envelope for mailing said ballot and identification of voter for purposes of proposing challenges to the voter's eligibility. In the event of a challenge, both envelopes shall remain sealed until such time as the challenge is resolved. In the event of no challenge, the mailing envelope shall be opened and the envelope containing the secret ballot shall be deposited in the ballot box.

5.1(4) *Time for intervention.* No employee organization may be placed on any ballot unless application for intervention, as provided in 621—subrule 4.1(2), is received by the board within seven calendar days after the direction of an election. Submission of an adequate showing of interest, as provided in 621—subrule 4.3(2), must be received by the board within seven calendar days after the direction of the election, unless an extension of time, upon written request, is granted by the board.

5.1(5) *Withdrawal from ballot.* An employee organization may, upon its request, be removed from any ballot with the approval of the board.

621—5.2(20) Conduct of election.

5.2(1) *General procedure—ballots.* After consulting with the parties to an election the board shall determine the date, place, and other procedural aspects of conducting the election. Elections shall be conducted under the direction and supervision of the board or its election agent and shall be by secret ballot. Ballots shall be provided by the board and shall contain the question required by Iowa Code section 20.15. The question in an election where only one employee organization appears on the ballot shall ask, "Do you wish to be represented for purposes of collective bargaining by [name of employee organization]?", followed by the choices "Yes" or "No"; the question in an election where more than one

employee organization appears on the ballot shall state: "Do you wish to be represented for purposes of collective bargaining by:" and shall then list horizontally or vertically thereafter the choices available, including the name of each employee organization and the choice of "Neither" or "No Representative", as is applicable. In decertification elections, ballots shall be provided by the board and shall ask: "Do you desire that [name of certified employee organization] be decertified by the Public Employment Relations Board and cease to be your exclusive bargaining representative?", followed by the choices "Yes" or "No".

5.2(2) *Observers.* The parties to an election may each designate an equal number of representatives, not to exceed one per voting site, to act as its observers during the election and tally of ballots. Unless agreed to by the parties observers shall not be supervisory employees of the public employer.

5.2(3) *Ballot box.* Upon examination by the observers and prior to the opening of the polls, the election agent shall seal the ballot box so that entry thereto is limited to one slot. In the event that the election is continued for more than one polling period or at more than one polling place, the ballot box shall be sealed in its entirety and shall remain in the custody of the election agent until immediately prior to the next polling period or the counting of the ballots.

5.2(4) *Voting procedure—challenges.* An eligible voter shall cast the ballot by marking the voter's choice(s) on the ballot and depositing it in the ballot box. If a voter inadvertently spoils a ballot, the ballot may be returned to the agent, who shall void and retain it and deliver to the voter another ballot. When a voter is unable to mark the ballot due to physical disability or inability to read or write, the agent may privately assist the voter.

An authorized observer or the board's election agent may challenge for good cause the eligibility of any voter, provided such challenge is made prior to the time the voter casts the ballot. The challenged voter may mark the ballot in secret and the election agent shall segregate the ballot by causing it to be placed in the envelope with appropriate markings and deposited in the ballot box.

5.2(5) *Absentee ballot.* An absentee ballot shall be delivered to an eligible voter only upon the voter's written notice to the board of the voter's inability to be present at the election for good cause. The voted ballot must be in the possession of the election agent prior to the close of the manual election in order to be counted and shall be in the official envelope provided for this purpose. Challenges to the eligibility of absentee voters may be made at the time the ballots are commingled.

621—5.3(20) Election results—tally of ballots. At the close of the polls, or at time and place as the board may prescribe, the election agent shall open the ballot box and tabulate the results of the election. Void ballots shall be those which do not indicate the clear intent of the voter or which appear to identify the voter.

621—5.4(20) Postelection procedures.

5.4(1) *Certification of results.*

a. Upon completion of a valid representation certification election in which an employee organization received the votes of a majority of those employees voting, the board shall certify that employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

b. Upon completion of a valid representation certification election in which only one employee organization appeared on the ballot and that employee organization did not receive the votes of a majority of those voting, the board shall serve notice of noncertification.

c. Upon completion of a valid election in which more than one employee organization appeared on the ballot and no choice on the ballot received the votes of a majority of those employees voting, the board shall conduct a runoff election between the two choices receiving the greatest number of votes. If the runoff election is held less than 30 days after the original election, those eligible to vote shall be those who were eligible to vote in the original election and are still employed in the bargaining unit on the day of the runoff election. If the runoff election is held more than 30 days after the original election, the board may direct the employer to submit a new eligibility list based upon a revised voter eligibility date.

d. Upon completion of a valid election, as provided for in paragraph *"c"* above, the board shall certify as the exclusive bargaining representative the employee organization receiving the votes of a majority of those employees voting; if no employee organization on the runoff ballot receives a majority of the votes of those employees voting, the board shall serve notice of noncertification.

e. If an employee organization fails to comply with the provisions of Iowa Code section 20.25 within 90 days of the completion of a valid election, the board shall serve notice of noncertification; provided, however, that extensions of time to comply may be granted by the board upon good cause shown.

f. Upon completion of a valid decertification election, in which a majority of employees voting cast their ballots in the affirmative, the board shall serve notice of decertification.

g. Upon completion of a valid decertification election, in which a majority of employees voting cast their ballots in the negative, or in the case of a tie, the board shall serve notice of continued certification.

5.4(2) *Challenged ballots; objections.* Whenever challenged ballots are determinative of the outcome of an election or timely objections are filed, a hearing shall be scheduled. Objections to an election must be filed within ten days of service of the tally of ballots on the parties, even when challenged ballots are determinative of the outcome of the election, and must contain a statement of facts upon which the objections are based. The objections shall be filed with the board and a copy shall be served upon each of the other parties to the election, with certificate of service endorsed upon the original filed with the board.

5.4(3) *Objectionable conduct during election campaigns.* The following types of activity, if conducted during the period beginning with the filing of an election petition with the board and ending at the conclusion of the election, and if determined by the board that such activity could have affected the results of the election, shall be considered to be objectionable conduct sufficient to invalidate the results of an election:

a. Electioneering within 300 feet or within sound of the polling place established by the board during the conduct of the election;

b. Misstatements of material facts by any party to the election or its representative without sufficient time for the adversely affected party to adequately respond;

c. Any misuse of board documents, including an indication that the board endorses any particular choice appearing on the ballot;

d. Campaign speeches to assembled groups of employees during working hours within the 24-hour period before the election;

e. Any polling of employees by a public employer which relates to the employees' preference for or against a bargaining representative;

f. Commission of a prohibited practice;

g. Any other misconduct or other circumstance which prevents employees from freely expressing their preferences in the election.

621—5.5(20) Bars to an election.

5.5(1) *Certification elections.* Notwithstanding the filing or pendency of a certification petition, the board shall conduct no certification election:

a. During the one-year period following the date of an employee organization's noncertification subsequent to a valid certification election; or

b. If the bargaining unit in question is at that time represented by a certified exclusive bargaining representative. This representation bar shall not apply to a representation election in an amendment of unit case pursuant to 621—subrule 4.6(3).

5.5(2) *Decertification elections.* Notwithstanding the filing or pendency of a decertification petition, the board shall conduct no decertification election:

a. During the one-year period following the date of an employee organization's certification subsequent to a valid certification election; or

b. During the one-year period following the date of the issuance of an order of continued certification subsequent to a valid decertification election; or

c. Whenever a collective bargaining agreement exists, provided such agreement is written and executed by the parties to it; that such agreement is between a public employer and a certified employee organization; that such agreement does not discriminate among groups of employees on the basis of age, race, sex, religion, national origin or physical disability, as provided by law; and provided further, that any such agreement which exists for a duration in excess of two years shall be deemed for the purposes of this rule to be for a duration of two years only.
[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—5.6(20) Decertification elections. Petitions for decertification which are filed with the board not less than 180 nor more than 240 days prior to the expiration of an otherwise valid collective bargaining agreement shall be processed by the board notwithstanding the provisions of paragraph 5.5(2)*"c,"* and the board shall, pursuant to Iowa Code section 20.15, conduct an election not more than 180 nor less than 150 days prior to the expiration of the collective bargaining agreement.
[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—5.7(20) Disclaimer. Notwithstanding the provisions of rule 621—5.6(20), the board will process a valid decertification petition accompanied by an adequate show of interest as required by 621—subrule 4.3(2) at any time if the certified employee organization files a disclaimer of representation. A disclaimer of representation is a statement signed by an authorized representative of the certified employee organization, stating that the employee organization wishes to disclaim representation of the employees in the certified bargaining unit.

5.7(1) Upon receipt of a disclaimer and a valid petition for decertification, the board shall serve copies of the disclaimer and petition upon the employer by certified mail. The board shall prepare a public notice of proposed decision that the employee organization will be decertified and cease to be the certified representative of the employees in the bargaining unit. The public employer shall post the notice of the proposed decertification for a period of not less than one calendar week in a prominent place in the main office of the public employer accessible to the general public and in conspicuous places customarily used for the posting of information to employees. The public employer shall also have copies of the proposed decertification available for distribution to the public upon request.

5.7(2) Notice of the proposed decertification shall be on a form provided by the board which shall identify the parties; specify that the employee organization seeks to disclaim representation; specify the unit currently represented by the employee organization; list the names, addresses, and telephone numbers of the parties or their authorized representatives to whom inquiries by the public should be directed; and state the date by which written objections to the proposed decertification must be filed with the board and the address to which the objections should be sent.

5.7(3) Objections to the proposed decertification must be filed with the board by the date posted in the notice. Objections shall be in writing and shall set out the specific grounds for objection. The objecting party must be identified and provide a mailing address and telephone number. The board shall promptly advise the parties of the objections. If the objections cannot be informally resolved, they shall be resolved at hearing or the board may direct and conduct a decertification election pursuant to rule 621—5.6(20).

5.7(4) If no objections have been filed, or if filed and the board has determined that the objections lack substance, the board shall order the decertification of the employee organization for the unit specified. If the employee organization is decertified pursuant to this rule, no representation election involving the same employee organization and the same unit may be conducted for a period of one year from the date of decertification.

621—5.8(20) Destruction of ballots. In the absence of litigation over the validity or outcome of an election and after a period of 60 days has elapsed from the date of the certification, noncertification,

decertification or continued certification of an employee organization pursuant to a certification or decertification election, the board may destroy the ballots involved in such election.
[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

These rules are intended to implement Iowa Code chapter 20. [Rules 621—5.2(20) and 621—5.4(20) implement Iowa Code section 20.15.]

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CHAPTER 6
NEGOTIATIONS AND NEGOTIABILITY DISPUTES

621—6.1(20) Scope of negotiations. The scope of negotiations shall be as provided in Iowa Code section 20.9. Either party may introduce other, nonmandatory matters for negotiation, and negotiation on these matters may continue until resolved by mutual agreement of the parties or until negotiations reach the arbitration stage of impasse; provided, however, that no party may be required to negotiate on nonmandatory subjects of bargaining. Unresolved nonmandatory matters shall be excluded from arbitration unless submission of the matter has been mutually agreed upon by the parties. Such an agreement is applicable only to negotiations toward the collective bargaining agreement then sought and is not binding upon the parties for future negotiations.
[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—6.2(20) Consolidated negotiations. Nothing in these rules shall prohibit, by agreement of the parties, more than one certified bargaining representative from bargaining jointly with a common public employer, or more than one public employer from bargaining jointly with a common certified bargaining representative, or any other combination thereof.

621—6.3(20) Negotiability disputes.

6.3(1) *Defined. "Negotiability dispute"* is a dispute arising in good faith during the course of collective bargaining as to whether a proposal is subject to collective bargaining under Iowa Code section 20.9 or whether a proposal which is subject to collective bargaining under Iowa Code section 20.9 is a mandatory topic of bargaining.

6.3(2) *Expedited resolution.* In the event that a negotiability dispute arises between the employer and the certified employee organization, either party may petition the board for expedited resolution of the dispute. The petition shall set forth the material facts of the dispute, the precise question of negotiability submitted for resolution, and certificate of service upon the other party. Unless the dispute is resolved by the board prior to the arbitration hearing, the parties shall present evidence on all items to the arbitrator, including the item which is the subject of the negotiability dispute. A negotiability dispute raised at the arbitration hearing shall be upon written objection to the submission of the proposal to the arbitrator. The objection shall request the arbitrator to seek a negotiability ruling from the board regarding the proposal or state that the objecting party will file a petition for resolution of the dispute with the board, which petition shall be filed within five days of the making of the objection. Arbitrators shall rule on all items submitted to them including the item which is the subject of the negotiability dispute, unless explicitly stayed by the board. Arbitration awards issued prior to the final determination of the negotiability dispute will be contingent upon that determination.

6.3(3) *Decisions.* Petitions filed pursuant to subrule 6.3(2) shall be given priority by the board. If deemed necessary by the board, the petition may be set for oral argument.
[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—6.4(20) Acceptance of proposed agreement. Where the parties have reached a proposed (or "tentative") collective bargaining agreement, the terms of that agreement shall be made public by the public employer, and the employee organization shall give reasonable notice of the date, time and place of a ratification election on the tentative agreement to the public employees; provided, however, that such notice shall be at least 24 hours prior to the election and the election shall be within seven days of the date of the tentative agreement. The vote shall be by secret ballot and only members of the employee organization shall be entitled to vote; provided, however, that the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall within 24 hours notify the public employer whether the proposed agreement has been ratified.

The public employer shall, within ten days of the tentative agreement, likewise meet to accept or reject the agreement, and shall within 24 hours serve notice on the employee organization of its acceptance or rejection of the proposed agreement; provided, however, that the public employer shall

not be required to either accept or reject the tentative agreement if it has been rejected by the employee organization.

The above time limits may be modified by a written mutual agreement between the public employer and the employee organization.

The above time limits shall not apply to proposed agreements between the state and any bargaining unit of state employees.

[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—6.5(20) Negotiations report—filing of agreement. Not later than 60 days after conclusion of an agreement, the public employer shall submit to the board a report of negotiations procedures on a form provided by the board and shall attach two copies of the agreement.

These rules are intended to implement Iowa Code chapter 20.

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CHAPTER 7
IMPASSE PROCEDURES

621—7.1(20) General. Except as provided in the second paragraph of subrule 7.5(6), the rules set forth in this chapter are applicable only in the absence of an impasse agreement between the parties or the failure of either to utilize its procedures. Nothing in these rules shall be deemed to prohibit the parties, by mutual agreement, from proceeding directly to binding arbitration at any time after impasse.

621—7.2(20) Fees of neutrals. Transferred to 621—1.8(20,279), IAB 11/14/90, effective 12/19/90.

621—7.3(20) Mediation.

7.3(1) *Request for mediation.* Either party to an impasse may request the board in writing to appoint a mediator to the impasse.

An original and one copy of the request for mediation shall be filed with the board and shall, in addition to the request for mediation, contain:

a. The name, address, and telephone number of the requesting party, and the name, address and telephone number of its bargaining representative or of the chairperson of its bargaining team.

b. The name, address, and telephone number of the opposing party to the impasse, and the name, address and telephone number of its bargaining representative or of the chairperson of its bargaining team.

c. A description of the collective bargaining unit involved and the approximate number of employees in the unit.

d. A statement indicating whether the public employer of the unit involved is subject to the budget certification requirements of Iowa Code section 24.17 and, if the public employer is not subject to those requirements, a statement of the date upon which the public employer's next fiscal or budget year commences.

e. A concise and specific listing of the negotiated items upon which the parties have reached impasse.

7.3(2) *Date, signature and notice.* The request for mediation shall be dated and signed by an authorized representative of the requesting party. The requesting party shall also serve a copy of the request upon other parties to the negotiations either by personal delivery or by ordinary mail.

7.3(3) *Appointment of mediator.* Upon receipt of a request for mediation, the board may appoint an impartial and disinterested person as mediator of the dispute and notify all parties of the appointment of the mediator. The board shall determine the effective date of this appointment.

7.3(4) *Confidential nature of mediation.* Any information, either written or oral, disclosed by the parties to the mediator in the performance of mediation duties shall not be discussed by the mediator voluntarily or by compulsion unless approved by the parties involved or permitted by Iowa Code section 20.31.

The mediator shall not disclose any information with regard to any mediation conducted on behalf of any party to any cause pending in a proceeding before a court, board, investigatory body or arbitrator, except as permitted by Iowa Code section 20.31, without the written consent of the public employment relations board. Without such written consent, the mediator shall respectfully decline, by reason of this rule, to divulge any information disclosed by a party in the performance of the mediator's duties.

7.3(5) *Mediation proceedings.* The mediator may hold separate or joint meetings with the parties or their representatives, and those meetings shall not be public. Mediation meetings shall be conducted at a time and place designated by the mediator. If an impasse exists ten days after the effective date of the appointment of a mediator, the mediator shall so notify the board.

7.3(6) *Board mediator.* When the mediator is an employee of the Public Employment Relations Board, that mediator shall not participate in any contested case arising out of any transaction or occurrence relating to those mediation activities.

7.3(7) *Costs of mediation.* The mediator shall submit in writing to the board a list of fees and expenses.

[**ARC 8317B**, IAB 12/2/09, effective 11/1/09; **ARC 8338B**, IAB 12/2/09, effective 11/10/09; **ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—7.4(20) Fact-finding. Rescinded IAB 7/28/10, effective 9/1/10.

621—7.5(20) Binding arbitration.

7.5(1) *Request for arbitration.* If the dispute remains unresolved ten days after the effective date of the appointment of the mediator, either party to the impasse may request the board to arrange for binding arbitration.

7.5(2) *Form and contents of request.* The request for arbitration shall be in writing and shall include the name, address and signature of the requesting party and the capacity in which acting.

7.5(3) *Service of request.* The requesting party shall serve a copy of the request for arbitration upon the opposing party by ordinary mail.

7.5(4) *Exchange of final offers.* Within four days of the board's receipt of the request for arbitration, each party shall serve its final offer on each of the impasse items to the other party to the impasse. Final offers shall not be amended. A party shall not submit a final offer for arbitration which has not been offered to the other party in the course of negotiations.

7.5(5) *Selection of arbitrator.* Upon the filing of a timely request for arbitration, the board shall serve a list of five arbitrators upon the parties. Within five days of service of the list, the parties shall select their arbitrator from the list in the manner specified in Iowa Code section 20.22(4) as amended by 2010 Iowa Acts, House File 2485, section 26.

7.5(6) *Date and conduct of hearings.* Impasse items are deemed submitted to binding arbitration on the date of the commencement of the arbitration hearing, regardless of its duration. In disputes where the public employer is a community college, or where all or a portion of the public employees in the bargaining unit are teachers licensed under Iowa Code chapter 272 and the public employer is a school district or area education agency, the submission of impasse items to binding arbitration shall occur not later than May 13 of the year when the resulting collective bargaining agreement is to become effective.

Arbitration hearings shall be open to the public and shall be recorded either by mechanized means or by a certified shorthand reporter. The arbitration hearing shall be limited to those factors listed in Iowa Code section 20.22(9) and such other relevant factors as may enable the arbitrator to select the most reasonable offer, in the arbitrator's judgment, of the final offers submitted by the parties on each impasse item. Arbitrators appointed pursuant to impasse procedures agreed upon by the parties shall likewise consider the factors listed in Iowa Code section 20.22(9).

7.5(7) *Continued bargaining.* The parties may continue to bargain on the impasse items before the arbitrator until the arbitrator's selections are made. Should the parties reach agreement on an impasse item following its submission to arbitration, they shall immediately report their agreement to the arbitrator. The agreed upon term shall be incorporated into the parties' collective bargaining agreement, and the arbitrator shall no longer consider the final offers of the parties on that impasse item.

7.5(8) *Report of the arbitrator.* Within 15 days after the arbitration hearing, the arbitrator shall issue a written award specifying and explaining the arbitrator's selections and serve each party and the board with a copy by ordinary mail.

7.5(9) *Dismissal of arbitrator.* In the event of a failure of the arbitrator to issue an award within 15 days after the arbitration hearing, the arbitrator shall notify the board and the parties of this failure. Either party may thereafter request a new arbitrator. Unless the parties agree otherwise, the procedures in subrules 7.5(1) to 7.5(5) shall apply; provided, however, that the parties may submit new final offers. No arbitrator shall issue a partial award except by mutual consent of the parties.

7.5(10) *Costs of arbitration.* The arbitrator shall submit to the parties a written statement of fees and expenses with a copy sent to the board. The parties shall share the costs of arbitration equally.

[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—7.6(20) Impasse procedures after completion deadline.

7.6(1) *Objections.* Any objection by a party to mediation or the conduct of arbitration proceedings which will not be completed by the applicable deadline for completion of impasse procedures shall be filed with the board and served upon the other party. Such filing and service shall take place no later than 10 days after the filing with the board of the request for mediation or arbitration to which the objection refers. For purposes of this rule, a single-party request for mediation which is filed more than 120 days prior to the applicable deadline for completion of impasse procedures or a request for arbitration which is filed prior to the filing period specified in subrule 7.5(1) shall be deemed filed on the first day of that filing period. Failure to file an objection in a timely manner may constitute waiver of such objection, in which case the applicable deadline for completion of impasse procedures shall not apply.

7.6(2) *Response to objection.* The nonobjecting party may, within 10 days following the filing of an objection with the board, file a response asserting that, because of deliberate delay on the part of the objecting party, or unavoidable casualty, misfortune or other events beyond the parties' control, impasse procedures should continue beyond the applicable deadline. A response may additionally or alternatively assert that the deadline relied upon by the objecting party is inapplicable for reasons set forth in the response, or may assert other reasons why impasse procedures should not be terminated. If a response is not filed within the time allowed by this subrule, the board may issue an order terminating further impasse procedures.

7.6(3) *Procedure.* Filing of an objection before the applicable deadline for completion of impasse procedures shall not affect the obligation of each party to continue the impasse procedures. Further, the board may postpone hearing on the objection if it determines that mediation may take place or that an arbitration award may be rendered on or before the applicable deadline. In making that determination, the board will attempt to expedite any remaining impasse proceedings, but no party shall be required to waive or shorten any mandatory statutory time periods which apply to that party.

7.6(4) *Hearings.* Insofar as is applicable, hearings on a party's objection shall be conducted pursuant to 621—Chapter 2. The nonobjecting party shall proceed first and shall have the burden to show that impasse procedures should not be terminated. The board shall then issue a final order that further impasse procedures should be completed or should continue for a specified period of time or should be terminated.
[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—7.7(20) Impasse procedures for state employees.

7.7(1) *Procedures.* Statutory procedures in Iowa Code sections 20.20 to 20.22, and independent impasse procedures negotiated by the parties must provide that the impasse be submitted to binding arbitration and the arbitration hearing concluded no later than February 28, and that any arbitrator's award will be issued on or before March 15. This rule does not preclude the parties from mutually agreeing to a date other than February 28, but the agreement must result in an arbitration award on or before March 15.

7.7(2) *Independent procedures.* Independent impasse procedures negotiated by the parties must provide that the impasse will be submitted to binding arbitration, and any hearing thereon concluded no later than February 28, and that any arbitrator's award will be issued on or before March 15.

7.7(3) *Statutory procedures.* In the absence of independent procedures, the procedures in Iowa Code sections 20.20 and 20.22 and rules 621—7.1(20) to 621—7.5(20) shall apply, except that a single-party request for mediation must be filed no later than December 14, a request for binding arbitration must be filed by February 1, and an arbitration hearing must be concluded no later than February 28.

7.7(4) *New certifications.* Statutory impasse procedures under these rules shall not be available if the employee organization has been certified later than December 1. This rule does not preclude the parties from negotiating independent impasse procedures if an employee organization is certified after December 1 and the procedures will result in an arbitration award on or before March 15.

7.7(5) *Negotiability disputes.* Disputes concerning the negotiability of any subject of bargaining shall be submitted to the board for determination pursuant to 621—6.3(20) no later than March 1. An arbitration award rendered prior to final determination of the negotiability dispute will be made conditional upon such determination. Notwithstanding the provisions of 621—2.19(20), no stay of

impasse procedures will be granted during the pendency of any negotiability dispute, petition for declaratory order, or prohibited practice complaint.

This rule is intended to implement Iowa Code section 20.17.

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[1] Effective date of 7.2 delayed by the Administrative Rules Review Committee 45 days after convening of the next General Assembly pursuant to §17A.8(9).

CHAPTER 8
INTERNAL CONDUCT OF EMPLOYEE ORGANIZATIONS

621—8.1(20) Registration report.

8.1(1) *When filed.* Before an employee organization may be certified as the exclusive representative of a bargaining unit, the employee organization shall have filed a registration report with the board.

8.1(2) *Form and content.* The registration report shall be in a form prescribed by the board. The registration report shall be accompanied by two copies of the employee organization's constitution and bylaws. A filing by a national or international of its constitution and bylaws shall be accepted in lieu of a filing of such documents by each subordinate organization, provided that such national or international constitution and bylaws conform to the requirements of the Act.

621—8.2(20) Annual report.

8.2(1) *When filed.* Before an employee organization may be certified as the exclusive representative of a bargaining unit, the employee organization shall have filed an annual report with the board. Such reports shall be filed within 90 days of the conclusion of each fiscal year of the employee organization. The first annual report filed by an employee organization may be filed concurrently with an election petition and shall reflect the last completed fiscal year of the organization or, in the case of a new organization, the last completed quarter or quarters of the current fiscal year.

8.2(2) *Form and content.* The annual report shall be in a form prescribed by the board and shall contain:

a. The names, addresses and telephone numbers of the organization, any parent organization or organizations with which it is affiliated, the principal officers and all representatives.

b. The name, address and telephone number of its local agent for service of process.

c. A general description of the public employees the organization represents or seeks to represent.

d. The amounts of the initiation fee and monthly dues members must pay.

e. A pledge, in a form prescribed by the board, that the organization will comply with the laws of the state and that it will accept members without regard to age, race, sex, religion, national origin or physical disability, as provided by law.

f. A financial report and audit. The financial report shall contain, at a minimum, the following information: cash balance from the previous year; a listing of sources and amounts of income; an identified listing of disbursements; and a closing balance. The audit shall consist of a statement that the financial report has been reviewed and found to be true and accurate. The audit must be signed by an auditing committee or a person or persons who hold no other office in the employee organization and who did not prepare the financial report.

621—8.3(20) Bonding requirements. Every person required by Iowa Code section 20.25(3)*"c"* to be bonded shall be bonded to provide protection against loss by reason of act of fraud or dishonesty on the part of such person, directly or through connivance with others. The bond of each such person shall be fixed at the beginning of the employee organization's fiscal year and shall be in an amount of not less than 10 percent of the funds handled by such person or their predecessor or predecessors, if any, during the preceding fiscal year, but in no case less than $2,000 nor more than $500,000. If the employee organization or the trust in which an employee organization is interested does not have a preceding fiscal year, the amount of the bond shall not be less than $2,000. Such bonds shall have a corporate surety company as surety thereon. Any person who is not covered by such bonds shall not be permitted to receive, handle, disburse or otherwise exercise control of the funds or other property of an employee organization or of a trust in which an employee organization is interested. No such bond shall be placed through an agent or broker or with a surety company in which any employee organization or any officer, agent, shop steward or other representative of an employee organization has any direct or indirect interest.

621—8.4(20) Trusteeships.

8.4(1) *Establishment.* Trusteeships shall be established or administered by an organization over a subordinate employee organization only in accordance with the constitution and bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures or otherwise carrying out the legitimate objectives of the employee organization.

8.4(2) *Reports.* Every organization which assumes trusteeship over any subordinate employee organization shall file with the board within 30 days after the imposition of any such trusteeship, and semiannually thereafter, a report, signed by its president and treasurer or corresponding principal officers, as well as by the trustees of such subordinate employee organization, containing the following information:

a. The name and address of the subordinate employee organization;

b. The date of the establishment of the trusteeship;

c. A detailed statement of the reason for the establishment or the continuation of the trusteeship; and

d. The nature and extent of participation by the membership of the subordinate employee organization in the selection of delegates to represent such employee organization in regular or special conventions or other policy-determining bodies and in the election of officers of the organization which has assumed trusteeship over the employee organization.

The initial report of the establishment of the trusteeship shall include a full and complete account of the financial condition of the subordinate employee organization as of the time trusteeship was assumed over it.

8.4(3) *Continuing duty to report.* During the continuance of a trusteeship, the organization which has assumed trusteeship over a subordinate employee organization shall file on behalf of the subordinate employee organization all reports required by this chapter. Such reports shall be signed by the president and treasurer or corresponding principal officers of the organization which has assumed such trusteeship and the trustees of the subordinate employee organization.

621—8.5(20) Reports as public information. The contents of the reports required by this chapter shall be public information, and the board may publish any information and data which it obtains from such reports.

621—8.6(20) Filing of a complaint. A complaint that any employee organization has engaged in or is engaging in any practice which constitutes a violation of Iowa Code section 20.25 may be filed in writing with the board by any affected person. Upon receipt of a complaint, the board shall serve a copy upon the employee organization by certified mail, return receipt requested. The board shall conduct a preliminary investigation of the alleged violation. In conducting the investigation, the board may require the production of evidence, including affidavits and documents. If investigation shows the complaint has no basis in fact, the complaint shall be dismissed and the parties notified. If the investigation shows reasonable cause to believe a violation has occurred, the board shall notify the parties. If the parties are unable to agree on an informal settlement after notification of reasonable cause, the board shall schedule the complaint for hearing.

These rules are intended to implement Iowa Code chapter 20.

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CHAPTER 9
ADMINISTRATIVE REMEDIES

621—9.1(20) Final decisions. When a quorum of the members of the board presides at the evidentiary hearing in a contested case proceeding, the decision entered thereon is the final decision of the agency. When the hearing is presided over by other than a quorum of the members of the board, the administrative law judge shall render a proposed decision, which shall become the final decision of the agency unless within 20 days of the filing of such proposed decision:

9.1(1) A party aggrieved by the proposed decision files an appeal to the board, or

9.1(2) The board, on its own motion, determines to review the proposed decision.

621—9.2(20) Appeals to board.

9.2(1) *Notice of appeal.* An appeal to the board from a proposed decision of an administrative law judge in a contested case proceeding shall be commenced within 20 days of the filing of the proposed decision by filing a written notice of appeal with the board. The appealing party shall serve a copy of the notice upon all opposing parties as provided in rule 621—2.15(20), or by ordinary mail upon the parties' attorneys of record.

9.2(2) *Cross-appeals.* A cross-appeal may be taken in the same manner as an appeal within the 20 days for taking an appeal or within 5 days after the appeal is taken, whichever is later.

9.2(3) *Hearing.* On appeal the board shall utilize the record as submitted before the administrative law judge but may, upon application of a party, order that additional evidence be taken on appeal if it is shown that the additional evidence is material and that there were good reasons for the party's failure to present it before the administrative law judge. Any person, employee organization or public employer who has a significant interest in the outcome of the appeal may petition the board for intervention in the appeal proceedings. Where intervention is granted by the board, the intervening parties may submit briefs and arguments and participate in the same manner as an original party to the proceeding. The board shall set a time and place of hearing or argument and give notice thereof to the parties. The decision rendered by the board shall be a final decision of the agency.

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These rules are intended to implement Iowa Code chapter 20.

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CHAPTER 10
DECLARATORY ORDERS

621—10.1(17A,20) Who may petition. Any person, public employer or employee organization may file a petition with the board for a declaratory order as to the applicability to specified circumstances of a statute, rule or order within the primary jurisdiction of the agency.

621—10.2(20) Contents of petition. A petition for a declaratory order must include:

10.2(1) The name, address and telephone number of the petitioner.

10.2(2) A clear and concise statement of the specific facts upon which the board is to base the declaratory order.

10.2(3) A citation to and the relevant language of the specific statute, rule or order whose applicability is questioned, and any other relevant law.

10.2(4) The specific questions which the petitioner wants answered, stated clearly and concisely.

10.2(5) The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.

10.2(6) The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.

10.2(7) 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.

10.2(8) The names and addresses of other persons or entities, or a description of any class of persons or entities known by petitioner to be affected by or interested in the questions presented in the petition.

10.2(9) A certificate of service of the petition upon any persons or entities required to be served with a copy by rule 10.7(17A,20).

621—10.3(17A,20) Caption. The following caption is suggested for petitions for declaratory orders:

BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:	}	CASE NO.
(NAME OF THE PARTY REQUESTING THE RULING), PETITIONER.		PETITION FOR DECLARATORY ORDER

621—10.4(17A,20) Notice of petition. Within ten days after receipt of a petition for a declaratory order, the board shall give notice of the petition to all persons not served by the petitioner pursuant to rule 10.7(17A,20) to whom notice is required by any provision of law. The board may also give notice to any other persons or entities.

621—10.5(17A,20) Intervention.

10.5(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention which complies with subrule 10.5(3) within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in the proceeding.

10.5(2) Any person who files a petition for intervention which complies with subrule 10.5(3) at any time prior to the issuance of the agency's final order in the matter may be allowed to intervene in the proceeding at the discretion of the board.

10.5(3) A petition for intervention in a declaratory order proceeding must include:

a. The name, address and telephone number of the person seeking intervention.

b. A clear and concise statement of the facts supporting the intervenor's standing and qualifications for intervention.

c. A citation to and the relevant language of any additional statutes, rules or orders and any other additional, relevant law not specified in the petition for declaratory order.

d. The answers to the questions presented in the petition for declaratory order desired by the intervenor and a summary of the reasons urged by the intervenor in support of those answers.

e. The reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.

f. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor'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 entities, or a description of any class of persons or entities known by intervenor to be affected by or interested in the questions presented.

621—10.6(17A,20) Briefs. The petitioner or any intervenor may file a brief in support of the position urged by that party. The board may request a brief from the petitioner, any intervenor or any other person or entity concerning the questions raised.

621—10.7(17A,20) Service of petitions and other papers. Every petition for declaratory order, petition for intervention, brief or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding and on all other persons or entities identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing with the board. The party filing a document is responsible for service on all parties and other affected or interested persons.

621—10.8(17A,20) Action on petition. Within the time allowed by 1998 Iowa Acts, chapter 1202, section 13(5), after receipt of a petition for a declaratory order, the board or its designee shall take action on the petition as required by that section.

621—10.9(17A,20) Refusal to issue order.

10.9(1) The board shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

a. The petition does not substantially comply with rule 10.2(20).

b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the board's failure to issue a declaratory order.

c. The board does not have jurisdiction over the questions presented in the petition.

d. The questions presented by the petition are also presented in a current rule-making, contested case or other agency or judicial proceeding that may definitively resolve them.

e. The questions presented by 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 presented in the petition are unclear, overbroad, insufficient or otherwise inappropriate as a basis upon which to issue a declaratory order.

g. There is no need to issue a declaratory order 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 an agency decision already made.

i. The petition requests a declaratory order that would necessarily determine the legal rights, duties or responsibilities of persons or entities who have not joined in the petition, intervened separately or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.

j. The petitioner requests the board to determine whether a statute is unconstitutional on its face.

10.9(2) A refusal to issue a declaratory order shall indicate the ground or grounds for the refusal and constitutes final agency action on the petition.

10.9(3) Refusal to issue a declaratory order pursuant to this rule does not preclude the filing of a new petition that seeks to eliminate the grounds for the prior refusal.

621—10.10(17A,20) Copies of orders. A copy of all orders issued in response to a petition for declaratory order or petition for intervention shall be promptly mailed to the petitioner and all intervenors.

These rules are intended to implement Iowa Code section 17A.9 and chapter 20.

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CHAPTER 11
STATE EMPLOYEE APPEALS OF GRIEVANCE DECISIONS AND DISCIPLINARY ACTIONS

621—11.1(19A,20) Notice of appeal rights. Whenever the director of the Iowa department of personnel (hereinafter referred to as the director) issues a response to an employee on a matter appealable to the public employment relations board (hereinafter referred to as the board) pursuant to Iowa Code section 19A.14 as amended by 1988 Iowa Acts, House File 2399, section 1, in which the director does not grant the relief sought by the employee, the director shall also provide notice to the affected employee of appeal procedures and time limitations governing the appeal.

621—11.2(19A,20) Filing of appeal.

11.2(1) Appeals shall be filed with the board on the State Employee Grievance and Disciplinary Action Appeal Form.

11.2(2) Grievances. An employee, except an employee covered by a collective bargaining agreement which provides otherwise, who is not satisfied with the director's response to the employee's grievance may file an appeal with the board if the grievance alleged either a violation of Iowa Code chapter 19A or the rules of the department of personnel. Such appeal must be filed within 30 calendar days following the date the director's response was issued or should have been issued.

11.2(3) Disciplinary appeals. A nonprobationary merit system employee, except an employee covered by a collective bargaining agreement, who is discharged, suspended, demoted, or otherwise reduced in pay, and appeals the action to the director and is not satisfied with the director's response, may file an appeal with the board. Such appeal must be filed within 30 calendar days following the date the director's response was issued or should have been issued.

11.2(4) The board shall serve copies of the appeal upon the director by ordinary mail.

621—11.3(19A,20) Content of the appeal.

11.3(1) The appeal shall contain the following:

1. Name and social security number of the appealing employee;
2. Name of agency/department by which the appealing employee is/was employed;
3. A request for hearing, if desired;
4. A statement of the reasons supporting the appealing employee's dissatisfaction with the director's response;
5. A statement of the desired relief;
6. The name of the appealing employee's representative, if any;
7. Copies of all relevant documents;
8. Signature of the appealing employee;
9. Copy of the director's response to the employee;
10. A statement of the Iowa Code chapter 19A provision and department of personnel rule(s) which has allegedly been violated. (Note: This statement is required only for appeals of grievance decisions, not appeals of disciplinary actions.)

11.3(2) Completion of the State Employee Grievance and Disciplinary Action Appeal Form shall constitute compliance with all subrule 11.3(1) requirements.

621—11.4(19A,20) Content of director's answer to the appeal.

11.4(1) The director shall have 15 days from the date of receipt of notice of the employee's appeal in which to file an answer with the board.

11.4(2) The answer shall contain the following:

1. The names of the appealing employee and the employing agency/department;
2. A statement of the director's findings concerning the grievance or disciplinary action which forms the basis of the appeal. This statement must be complete and concise, and shall include the reasons supporting the director's response to the appealing employee;

3. A specific reply admitting, denying, or explaining each allegation contained in the appealing employee's appeal;

4. All relevant documents contained in the director's record of the proceeding;

5. Designation of and signature by the director or the director's designee.

11.4(3) The parties shall serve on each other one copy of all pleadings filed with the board other than the employee's appeal. Service shall be made according to board rule 2.15(20).

621—11.5(19A,20) Right to a hearing.

11.5(1) The appealing employee has a right to an evidentiary hearing closed to the public unless a public hearing is requested by the employee. If the employee chooses to have a hearing, the board shall appoint an administrative law judge to adjudicate the matter. The 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 contained in the employee's appeal and the director's answer.

11.5(2) Alternatively, the appealing employee may choose to have the administrative law judge determination based upon the record consisting of all the pleadings and documents filed with the board, without a hearing. If the employee chooses to have a decision based upon the record, the following procedure shall apply:

1. The employee shall submit the State Employee Grievance and Disciplinary Action Appeal Form to the board pursuant to subrule 11.3(1);

2. The director shall be notified and shall answer within 15 days as required in subrule 11.4(1);

3. The employee shall have 10 days following receipt of the director's answer to reply. The record shall then be closed and the hearing officer shall issue the decision based upon the record.

621—11.6(19A,20) Witnesses. Every state agency shall make its employees available to furnish sworn statements or to appear as witnesses at the hearing. When providing statements or testimony, witnesses shall be on official duty status.

621—11.7(19A,20) Finality of decision. 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.

621—11.8(19A,20) Review by board.

11.8(1) 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. The petitioning party shall serve a copy of the petition for review upon all parties or their attorney(s) of record by personal delivery or by ordinary mail.

11.8(2) Should the board determine to review a proposed decision on its own motion, the board shall provide all parties or their attorney(s) of record with written notice of such determination by personal delivery or by ordinary mail.

11.8(3) 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, or

3. Take any other action necessary for final disposition of the case.

621—11.9(19A,20) Other rules. Any matters not specifically addressed by the rules contained in this chapter shall be governed by the general provisions of the rules of the public employment relations board.

621—11.10(19A,20) Applicability. This chapter shall apply to appeals filed with the board on or after July 1, 1988. Appeals filed prior to that date shall be governed by the board's prior rules governing "Merit

Appeals," 621—11.1(20) through 621—11.9(20), filed October 15, 1986, and effective December 10, 1986.

These rules are intended to implement Iowa Code chapters 19A and 20.

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CHAPTER 12
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The public employment relations board adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules on Agency Procedure relating to public records and fair information practices which is printed in the first volume of the Iowa Administrative Code.

621—12.1(20,22) Definitions. As used in this chapter:

"Agency" in these rules means the public employment relations board.

"Routine use" in these rules 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 or is maintained. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

621—12.3(20,22) Requests for access to records.

12.3(1) *Location of records.* In lieu of the words "(insert agency head)", insert the words "Chairperson, Public Employment Relations Board, 510 East 12th Street, Suite 1B, Des Moines, Iowa 50319". The second and third sentences of subrule 12.3(1) are not adopted.

12.3(2) *Office hours.* In lieu of the words "all customary office hours, which are (insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert the words "the agency's customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays".

12.3(7) *Fees.*

c. *Supervisory fee.* Delete the words "when the supervision time required is in excess of (specify time period)" and the words "(An agency wishing to deal with search fees authorized by law should do so here.)"

621—12.6(20,22) Procedure by which additions, dissents or objections may be entered into certain records. In lieu of the words "custodian or to (designate office)", insert the words "chairperson of the agency".

621—12.9(20,22) Disclosures without the consent of the subject.

12.9(1) Open records are routinely disclosed without the consent of the subject.

12.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. The following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 621—12.1(20,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with 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 governmental 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 an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and identifying the law enforcement activity for which the record is sought.

d. To an individual pursuant to 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 address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

621—12.10(20,22) Routine use. To the extent allowed by law, the following uses are considered routine uses of all agency records:

12.10(1) Disclosure to those officers, employees and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

12.10(2) 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.

12.10(3) Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

12.10(4) Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

12.10(5) Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

12.10(6) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

621—12.11(20,22) Consensual disclosure of confidential records.

12.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 621—12.7(20,22).

12.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

621—12.12(20,22) Release to subject.

12.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 621—12.6(20,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (see Iowa Code section 22.7(5))

d. As otherwise authorized by law.

12.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

621—12.13(20,22) Availability of records.

12.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

12.13(2) *Confidential records.* The agency may have discretion to 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 records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 621—12.4(20,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 12.4(3).

12.13(3) *Chart.* [1] This subrule lists the agency's records in chart form and provides in:

a. Column one, a description of the nature and content of the record or record system.

b. Column two, whether the record or record systems are open for public inspection, confidential, or are partly open and partly confidential.

c. Column three, the legal basis for asserting a record or record system is confidential in whole or in part.

d. Column four, whether the record or records can be accessed by a personal identifier.

e. Column five, a description of the nature and extent of personal information that can be found in the record or record system, if any.

f. Column six, the legal authority, where appropriate, relied upon by the agency for collection of personally identifiable information.

g. Column seven, the method of storage of the record or record system.

[1] See chart following rule 621—12.15(20,22).

621—12.14(20,22) Data processing systems. None of the data processing systems used by the agency permit the electronic or mechanical comparison of personally identifiable information in one record system with personally identifiable information in another record system.

621—12.15(20,22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

3. Govern the maintenance or disclosure of, notification of or access to, records by the regulations of another agency.

4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

Key: O = Open; C = Confidential Records (may or shall be withheld frompublic inspection); O/C = Partly Open, Partly Confidential; N/A = Not Applicable; Y = Yes; N = No; P = Paper Medium or microfilm; C = Data Processing medium

Note: All numerical citations are to the Iowa Code unless otherwise shown

Nature & Description of Record	Type of Record	Confidentiality Authority	Access by Personal Identifier?	Contains Personal Info?	Personally Identifiable Collection Authority	How Stored?
I. Complaint Case Files A complaint that any person, organization or public employer has violated the Public Employment Relations Act (Act) may be filed by any person, employee organization or public employer. These files contain information which pertains to the alleged violation of the Act, its investigation and resolution, and appeals within the agency. During the investigatory/mediation stage the file may contain mediator notes which are confidential.	O/C	22.7(20). 20.1(4), 20.6(5), IAC 621—subrule 7.3(4).	Y/N Y - only if complainant or respondent is an individual.	Y - names, address and telephone number of individuals. May also include transcript testimony and exhibits containing personal information.	20.1(2), 20.6(4), 20.11. IAC 621—8.6(20).	P
II. Bargaining unit, representation, decertification, unit reconsideration, amendment of unit, unit clarification, revocation of certification and amendment of certification case files. These documents are the record of the agency establishment of appropriate bargaining units, conduct of secret ballot elections and monitoring of the merger, affiliation and disaffiliation of certified labor organizations. These files may contain mediator notes which are confidential. Representation and decertification files contain a "show of interest" in which public employees indicate by an original signature whether they wish to be represented by or decertify a certified labor organization. "Show of interest" records are confidential.	O/C	22.7(20). 20.1(4), 20.6(5), IAC 621—subrule 7.3(4). IAC 621—subrule 4.3(3).	Y/N - only if petitioner is an individual.	Y - names, address and telephone number of individuals. May also include transcript testimony and exhibits containing personal information.	20.1(1), 20.13-15, 20.6(4).	P
III. Negotiability Dispute Case Files A petition for an expedited ruling on a negotiability dispute may be filed by a public employer or certified employee organization requesting the agency to determine whether a specific contract proposal is a mandatory, permissive, or illegal subject of bargaining under Section 9 of the Public Employment Relations Act. Such files contain documents concerning the agency's determination of that question.	O	N/A	N	Y - names, addresses, and telephone numbers of the parties' representatives.	20.6(4)	P
IV. Declaratory Order Case Files Any person, public employer or employee organization may petition the agency to issue a declaratory order as to the applicability of a statute, rule or order within the primary jurisdiction of the agency. Such files contain documents concerning the proceedings, including the agency's determination.	O	N/A	Y/N Y - only if petitioner is an individual.	Y - names, addresses and telephone numbers of individuals.	20.6(4)	P

V. Contract Negotiation Impasse Case Files As the first step in the performance of their duty to bargain, the public employer and the certified employee organization shall agree upon impasse procedures to assist the parties in concluding a collective bargaining agreement. These files contain the request for impasse services, relevant correspondence and mediator notes which are confidential.	O/C	22.7(20). 20.1(4), 20.6(5). IAC 621—7.3(4).	N	Y - names, addresses and telephone numbers of individuals or parties' representatives.	20.1(4), 20.19, 20.20-22	P/C
VI. Neutral Files The agency maintains biographical data on qualified mediators, fact-finders and interest arbitrators to assist in resolving contract disputes. The agency also maintains a list of qualified grievance arbitrators to issue decisions concerning grievances arising under a labor agreement and a list of teacher termination adjudicators selected pursuant to Chapter 179, The Code.	O	N/A	Y	Y - names, addresses, telephone numbers and biographical data of neutrals.	20.1(4), 20.6(3), 20.20-22	P/C
VII. Employee Organization Files The Public Employment Relations Act requires each certified employee organization to file certain information with the agency. These files contain an employee organization's constitution and bylaws, annual financial report and audit, and order of certification and amendments thereto, if any.	O	N/A	N	Y - names, addresses and telephone numbers of relevant employee organization officers and representatives.	20.25	P
VIII. State Employee Appeals of Grievance Decisions and Disciplinary Action Case Files Certain state employees have the statutory right to appeal to the agency from a response from the director to the Iowa Department of Personnel regarding the employee's grievance, discharge, suspension or demotion.	O/C	22.7(11). 19A.15.	Y	Y - names, addresses and telephone numbers of individuals. May also include transcript testimony and exhibits containing personal information.	20.1(3) 19A.14(1)(2)	P

IX. Index and Digest of Grievance Arbitration Decisions The agency maintains as a part of its Information Service a digest and subject matter index of decisions issued by grievance arbitrators. This information is located at the agency office, community college libraries, the Drake University and University of Iowa law libraries and the University of Iowa business school library.	O	N/A	Y/N Y - only if grievant is identified in the title of the arbitration decision.	Y - names, addresses and telephone numbers of individuals. May also include transcript testimony and exhibits containing personal information.	20.1(3)	P
X. Wage and Benefit Contract Summaries The Public Employment Relations Act requires the agency to collect and disseminate information concerning the wages, hours and other conditions of employment of public employees. This information, which is identified by employer/certified employee organization, is part of the agency's Information Service located at the agency office, community college libraries, Drake University and University of Iowa law libraries and the University of Iowa business school library.	O	N/A	N	N	20.1(5)	P
XI. Agency Personnel Files The agency maintains files containing information regarding employees, their families and dependents, and applicants for positions with the agency, some of which is confidential.	O/C	22.7(11)	Y/N Y - only for current employees.	Y - names, addresses and telephone numbers of individuals, payroll records, biographical information, medical information, performance reviews and evaluations, disciplinary information, information required for tax withholding and other information concerning the agency/employee relationship.	20.5(1), 20.5(4).	P
XII. Litigation Files	O/C	22.7(4)	Y/N	Y - names, addresses and telephone numbers of	20.1(6), 20.11(10),	P

These files contain information regarding litigation or anticipated litigation involving the agency. In addition to briefs, correspondence, research materials, etc., these files contain materials which are confidential as attorney work product and attorney-client communications.			Y - if a party to the litigation is an individual.	individuals. May also include transcript testimony and exhibits containing personal information.	20.11(11), 20.11(4).	
XIII. Internal Agency Records These records include agendas, minutes and materials presented to the agency, including documents generated during the promulgation of rules.	O/C	21.5	N	Y - these records may contain information regarding individuals who participate in agency meetings.	21.3	P
XIV. Administrative Records These records include documents concerning the budget, property inventory, purchasing, time sheets, printing and supply requisitions.	O	N/A	N	N	N/A	P

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CHAPTER 13
Reserved