5. The department of administrative services shall develop for all state agencies, and all state agencies shall distribute at the time of hiring or orientation, a guide for employees that describes the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures.

6. The state board of regents shall develop, and direct the institutions under its control to distribute at the time of hiring, registration, admission, or orientation, a guide for employees, students, and patients that describes the applicable sexual harassment prohibitions and grievance, violation, and disposition procedures.

7. This section does not supersede a provision of a collective bargaining agreement negotiated under chapter 20, or the grievance procedures provisions of chapter 20.

8. This section does not supersede the remedies provided under chapter 216.

92 Acts, ch 1086, §3; 2003 Acts, ch 145, §143, 286; 2008 Acts, ch 1031, §98
Referred to in §2.11, 2.42, 602.1401

CHAPTER 20

PUBLIC EMPLOYMENT RELATIONS (COLLECTIVE BARGAINING)

Referred to in §1C.2, 2.40, 8.56, 8.58, 8A.402, 8A.411, 8A.413, 8D.3, 12.9, 13.13, 13.22, 13.34, 15.106C, 19B.12, 21.9, 28J.7, 70A.19, 70A.20, 70A.23, 70A.37, 80.8, 80.15, 99G.10, 173.1, 235E.2, 256F.4, 260C.18D, 261E.9, 262.9, 273.12, 279.10, 279.13, 279.14, 284.3, 284.3A, 284.4, 284.8, 284.11, 284.13, 331.324, 400.8A, 411.39, 602.1401, 602.11108, 905.4

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20.1 Public policy.

1. The general assembly declares that it is the public policy of the state to promote harmonious and cooperative relationships between government and its employees by permitting public employees to organize and bargain collectively; to protect the citizens of this state by assuring effective and orderly operations of government in providing for their health, safety, and welfare; to prohibit and prevent all strikes by public employees; and to protect the rights of public employees to join or refuse to join, and to participate in or refuse to participate in, employee organizations.

2. The general assembly declares that the purposes of the public employment relations board established by this chapter are to implement the provisions of this chapter 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:

a. Determining appropriate bargaining units and conducting representation elections.

b. Adjudicating prohibited practice complaints including the exercise of exclusive original

jurisdiction over all claims alleging the breach of the duty of fair representation imposed by section 20.17.

c. Fashioning appropriate remedial relief for violations of this chapter, including but not limited to the reinstatement of employees with or without back pay and benefits.

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

e. Providing mediators and arbitrators to resolve impasses in negotiations.

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

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

[C75, 77, 79, 81, §20.1]

86 Acts, ch 1238, §39, 58; 86 Acts, ch 1245, §229; 87 Acts, ch 19, §3; 90 Acts, ch 1037, §1, 2; 2008 Acts, ch 1032, §201; 2010 Acts, ch 1165, §1, 2

State merit system, see chapter 8A, subchapter IV

20.2 Title.

This chapter shall be known as the *"Public Employment Relations Act"*.

[C75, 77, 79, 81, §20.2]

20.3 Definitions.

When used in this chapter, unless the context otherwise requires:

1. *"Arbitration"* means the procedure whereby the parties involved in an impasse submit their differences to a third party for a final and binding decision or as provided in this chapter.

2. *"Board"* means the public employment relations board established under section 20.5.

3. *"Confidential employee"* means any public employee who works in the personnel offices of a public employer or who has access to information subject to use by the public employer in negotiating or who works in a close continuing working relationship with public officers or representatives associated with negotiating on behalf of the public employer.

"Confidential employee" also includes the personal secretary of any of the following: Any elected official or person appointed to fill a vacancy in an elective office, member of any board or commission, the administrative officer, director, or chief executive officer of a public employer or major division thereof, or the deputy or first assistant of any of the foregoing.

4. *"Employee organization"* means an organization of any kind in which public employees participate and which exists for the primary purpose of representing employees in their employment relations.

5. *"Governing body"* means the board, council, or commission, whether elected or appointed, of a political subdivision of this state, including school districts and other special purpose districts, which determines the policies for the operation of the political subdivision.

6. *"Impasse"* means the failure of a public employer and the employee organization to reach agreement in the course of negotiations.

7. *"Mediation"* means assistance by an impartial third party to reconcile an impasse between the public employer and the employee organization through interpretation, suggestion, and advice.

8. *"Professional employee"* means any one of the following:

a. Any employee engaged in work:

(1) Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

(2) Involving the consistent exercise of discretion and judgment in its performance;

(3) Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(4) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic

education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes.

b. Any employee who:

(1) Has completed the courses of specialized intellectual instruction and study described in paragraph *"a"*, subparagraph 4, of this subsection, and

(2) Is performing related work under the supervision of a professional person to qualify the employee to become a professional employee as defined in paragraph *"a"* of this subsection.

9. *"Public employee"* means any individual employed by a public employer, except individuals exempted under the provisions of section 20.4.

10. *"Public employer"* means the state of Iowa, its boards, commissions, agencies, departments, and its political subdivisions including school districts and other special purpose districts.

11. *"Strike"* means a public employee's refusal, in concerted action with others, to report to duty, or a willful absence from the employee's position, or a stoppage of work by the employee, or the employee's abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of public employment.

[C75, 77, 79, 81, §20.3]

2010 Acts, ch 1165, §3, 4

Referred to in §185.34, 235A.15, 412.2, 602.11108

20.4 Exclusions.

The following public employees shall be excluded from the provisions of this chapter:

1. Elected officials and persons appointed to fill vacancies in elective offices, and members of any board or commission.

2. Representatives of a public employer, including the administrative officer, director or chief executive officer of a public employer or major division thereof as well as the officer's or director's deputy, first assistant, and any supervisory employees. *"Supervisory employee"* means any individual having authority in the interest of the public employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other public employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. All school superintendents, assistant superintendents, principals and assistant principals shall be deemed to be supervisory employees.

3. Confidential employees.

4. Students working as part-time public employees twenty hours per week or less, except graduate or other postgraduate students in preparation for a profession who are engaged in academically related employment as a teaching, research, or service assistant.

5. Temporary public employees employed for a period of four months or less.

6. Commissioned and enlisted personnel of the Iowa national guard.

7. Judicial officers, and confidential, professional, or supervisory employees of the judicial branch.

8. Patients and inmates employed, sentenced or committed to any state or local institution.

9. Persons employed by the state department of justice, except nonsupervisory employees of the consumer advocate division who are employed primarily for the purpose of performing technical analysis of nonlegal issues.

10. Persons employed by the credit union division of the department of commerce.

11. Persons employed by the banking division of the department of commerce.

12. The appointee serving as the coordinator of the office of renewable fuels and coproducts, as provided in section 159A.3.

[C75, 77, 79, 81, §20.4]

83 Acts, ch 186, §10012, 10201; 86 Acts, ch 1245, §230; 86 Acts, ch 1246, §612; 89 Acts, ch 158, §3; 89 Acts, ch 296, §5; 91 Acts, ch 254, §3; 94 Acts, ch 1119, §9; 98 Acts, ch 1047, §12; 2007 Acts, ch 88, §1; 2010 Acts, ch 1061, §5

Referred to in §12.9, 20.3, 279.23

See also §12.9

20.5 Public employment relations board.

1. There is established a board to be known as the "Public Employment Relations Board".

a. The board shall consist of three members appointed by the governor, subject to confirmation by the senate. In selecting the members of the board, consideration shall be given to their knowledge, ability, and experience in the field of labor-management relations. No more than two members shall be of the same political affiliation, no member shall engage in any political activity while holding office and the members shall devote full time to their duties.

b. The members shall be appointed for staggered terms of four years beginning and ending as provided in section 69.19.

c. The member first appointed for a term of four years shall serve as chairperson and each of the member's successors shall also serve as chairperson.

d. Any vacancy occurring shall be filled in the same manner as regular appointments are made.

2. The board may employ such persons as are necessary for the performance of its functions. Personnel of the board shall be employed pursuant to the provisions of chapter 8A, subchapter IV.

3. The chairperson and the remaining two members shall be compensated as provided in section 7E.6, subsection 5. Members of the board and employees of the board shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses and salaries shall be paid from appropriations for such purposes and the board shall be subject to the budget requirements of chapter 8.

[C75, 77, 79, 81, §20.5]

2003 Acts, ch 145, §144; 2007 Acts, ch 215, §25; 2008 Acts, ch 1031, §82; 2010 Acts, ch 1165, §5

Referred to in §20.3

Confirmation, see §2.32

20.6 General powers and duties of the board.

The board shall:

1. Interpret, apply, and administer the provisions of this chapter.

2. Collect, for public employers other than the state and its boards, commissions, departments, and agencies, data and conduct studies relating to wages, hours, benefits and other terms and conditions of public employment and make the same available to any interested person or organization.

3. Establish minimum qualifications for arbitrators and mediators, establish procedures for appointing, maintaining, and removing from a list persons representative of the public to be available to serve as arbitrators and mediators, and establish compensation rates for arbitrators and mediators.

4. Hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such power to a member of the board, persons appointed or employed by the board, including administrative law judges, or administrative law judges employed by the division of administrative hearings created by section 10A.801, for the performance of its functions. The board may petition the district court at the seat of government or of the county where a hearing is held to enforce a board order compelling the attendance of witnesses and production of records.

5. Adopt rules in accordance with the provisions of chapter 17A as it may deem necessary to carry out the purposes of this chapter.

[C75, 77, 79, 81, §20.6]

88 Acts, ch 1109, §5; 91 Acts, ch 174, §1; 98 Acts, ch 1202, §28, 46; 2010 Acts, ch 1165, §6

Personnel appeals, see §8A.415

Appeals of adverse employment actions against whistleblowers, see §70A.28

20.7 Public employer rights.

Public employers shall have, in addition to all powers, duties, and rights established by constitutional provision, statute, ordinance, charter, or special act, the exclusive power, duty, and the right to:

1. Direct the work of its public employees.
2. Hire, promote, demote, transfer, assign and retain public employees in positions within the public agency.
3. Suspend or discharge public employees for proper cause.
4. Maintain the efficiency of governmental operations.
5. Relieve public employees from duties because of lack of work or for other legitimate reasons.
6. Determine and implement methods, means, assignments and personnel by which the public employer's operations are to be conducted.
7. Take such actions as may be necessary to carry out the mission of the public employer.
8. Initiate, prepare, certify and administer its budget.
9. Exercise all powers and duties granted to the public employer by law.

[C75, 77, 79, 81, §20.7]

20.8 Public employee rights.

Public employees shall have the right to:

1. Organize, or form, join, or assist any employee organization.
2. Negotiate collectively through representatives of their own choosing.
3. Engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection insofar as any such activity is not prohibited by this chapter or any other law of the state.
4. Refuse to join or participate in the activities of employee organizations, including the payment of any dues, fees or assessments or service fees of any type.

[C75, 77, 79, 81, §20.8]

Referred to in §20.10

20.9 Scope of negotiations.

The public employer and the employee organization shall meet at reasonable times, including meetings reasonably in advance of the public employer's budget-making process, to negotiate in good faith with respect to wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training and other matters mutually agreed upon. Negotiations shall also include terms authorizing dues checkoff for members of the employee organization and grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties. If an agreement provides for dues checkoff, a member's dues may be checked off only upon the member's written request and the member may terminate the dues checkoff at any time by giving thirty days' written notice. Such obligation to negotiate in good faith does not compel either party to agree to a proposal or make a concession.

Nothing in this section shall diminish the authority and power of the department of administrative services, board of regents' merit system, Iowa public broadcasting board's merit system, or any civil service commission established by constitutional provision, statute, charter or special act to recruit employees, prepare, conduct and grade examinations, rate candidates in order of their relative scores for certification for appointment or promotion or

for other matters of classification, reclassification or appeal rights in the classified service of the public employer served.

All retirement systems shall be excluded from the scope of negotiations.

[C75, 77, 79, 81, §20.9]

2003 Acts, ch 145, §286

Referred to in §20.10, 20.17, 21.9, 70A.19, 70A.30, 284.3A, 412.2

Dues checkoff for state employees, see §70A.19

20.10 Prohibited practices.

1. It shall be a prohibited practice for any public employer, public employee, or employee organization to refuse to negotiate in good faith with respect to the scope of negotiations as defined in section 20.9.

2. It shall be a prohibited practice for a public employer or the employer's designated representative to:

a. Interfere with, restrain or coerce public employees in the exercise of rights granted by this chapter.

b. Dominate or interfere in the administration of any employee organization.

c. Encourage or discourage membership in any employee organization, committee or association by discrimination in hiring, tenure, or other terms or conditions of employment.

d. Discharge or discriminate against a public employee because the employee has filed an affidavit, petition or complaint or given any information or testimony under this chapter, or because the employee has formed, joined or chosen to be represented by any employee organization.

e. Refuse to negotiate collectively with representatives of certified employee organizations as required in this chapter.

f. Deny the rights accompanying certification granted in this chapter.

g. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in this chapter.

h. Engage in a lockout.

3. It shall be a prohibited practice for public employees or an employee organization or for any person, union or organization or their agents to:

a. Interfere with, restrain, coerce or harass any public employee with respect to any of the employee's rights under this chapter or in order to prevent or discourage the employee's exercise of any such right, including, without limitation, all rights under section 20.8.

b. Interfere, restrain, or coerce a public employer with respect to rights granted in this chapter or with respect to selecting a representative for the purposes of negotiating collectively or the adjustment of grievances.

c. Refuse to bargain collectively with a public employer as required in this chapter.

d. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in this chapter.

e. Violate section 20.12.

f. Violate the provisions of sections 732.1 to 732.3, which are hereby made applicable to public employers, public employees, and employee organizations.

g. Picket in a manner which interferes with ingress and egress to the facilities of the public employer.

h. Engage in, initiate, sponsor or support any picketing that is performed in support of a strike, work stoppage, boycott or slowdown against a public employer.

i. Picket for any unlawful purpose.

4. The expressing of any views, argument or opinion, or the dissemination thereof, whether orally or in written, printed, graphic, or visual form, shall not constitute or be evidence of any prohibited practice under any of the provisions of this chapter, if such expression contains no threat of reprisal or force or promise of benefit.

[C75, 77, 79, 81, §20.10]

2010 Acts, ch 1165, §7 – 13

Referred to in §20.11, 279.19

20.11 Prohibited practice violations.

1. Proceedings against a party alleging a violation of section 20.10 shall be commenced by filing a complaint with the board within ninety days of the alleged violation, causing a copy of the complaint to be served upon the accused party. The accused party shall have ten days within which to file a written answer to the complaint. However, the board may conduct a preliminary investigation of the alleged violation, and if the board determines that the complaint has no basis in fact, the board may dismiss the complaint. The board shall promptly thereafter set a time and place for hearing in the county where the alleged violation occurred, provided, however, that the presiding officer may conduct the hearing through the use of technology from a remote location. The parties shall be permitted to be represented by counsel, summon witnesses, and request the board to subpoena witnesses on the requester's behalf. Compliance with the technical rules of pleading and evidence shall not be required.

2. The board may designate one of its members, an administrative law judge, or any other qualified person employed by the board to serve as the presiding officer at the hearing. The presiding officer has the powers as may be exercised by the board for conducting the hearing and shall follow the procedures adopted by the board for conducting the hearing. The proposed decision of the presiding officer may be appealed to the board, or reviewed on motion of the board, in accordance with the provisions of chapter 17A.

3. The board shall appoint a certified shorthand reporter to report the proceedings and the board shall fix the reasonable amount of compensation for such service, and for any transcript requested by the board, which amounts shall be taxed as other costs.

4. The board shall file its findings of fact and conclusions of law within sixty days of the close of any hearing, receipt of the transcript, or submission of any briefs. If the board finds that the party accused has committed a prohibited practice, the board may, within thirty days of its decision, enter into a consent order with the party to discontinue the practice, or after the thirty days following the decision may petition the district court for injunctive relief pursuant to rules of civil procedure 1.1501 to 1.1511.

5. The board's review of proposed decisions and the rehearing or judicial review of final decisions is governed by the provisions of chapter 17A.

[C75, 77, 79, 81, §20.11]

88 Acts, ch 1109, §6; 89 Acts, ch 296, §6, 7; 91 Acts, ch 174, §2; 2010 Acts, ch 1165, §14

20.12 Strikes prohibited.

1. It shall be unlawful for any public employee or any employee organization, directly or indirectly, to induce, instigate, encourage, authorize, ratify or participate in a strike against any public employer.

2. It shall be unlawful for any public employer to authorize, consent to, or condone a strike; or to pay or agree to pay any public employee for any day in which the employee participates in a strike; or to pay or agree to pay any increase in compensation or benefits to any public employee in response to or as a result of any strike or any act which violates subsection 1. It shall be unlawful for any official, director, or representative of any public employer to authorize, ratify or participate in any violation of this subsection. Nothing in this subsection shall prevent new or renewed bargaining and agreement within the scope of negotiations as defined by this chapter, at any time after such violation of subsection 1 has ceased; but it shall be unlawful for any public employer or employee organization to bargain at any time regarding suspension or modification of any penalty provided in this section or regarding any request by the public employer to a court for such suspension or modification.

3. In the event of any violation or imminently threatened violation of subsection 1 or 2, any citizen domiciled within the jurisdictional boundaries of the public employer may petition the district court for the county in which the violation occurs or the district court for Polk county for an injunction restraining such violation or imminently threatened violation. Rules of civil procedure 1.1501 to 1.1511 regarding injunctions shall apply. However, the court shall grant a temporary injunction if it appears to the court that a violation has occurred or is imminently threatened; the plaintiff need not show that the violation or threatened violation would greatly or irreparably injure the plaintiff; and no bond shall be required of the plaintiff unless the court determines that a bond is necessary in the public interest. Failure

to comply with any temporary or permanent injunction granted pursuant to this section shall constitute a contempt punishable pursuant to chapter 665. The punishment shall not exceed five hundred dollars for an individual, or ten thousand dollars for an employee organization or public employer, for each day during which the failure to comply continues, or imprisonment in a county jail not exceeding six months, or both such fine and imprisonment. An individual or an employee organization which makes an active good faith effort to comply fully with the injunction shall not be deemed to be in contempt.

4. If a public employee is held to be in contempt of court for failure to comply with an injunction pursuant to this section, or is convicted of violating this section, the employee shall be ineligible for any employment by the same public employer for a period of twelve months. The employee's public employer shall immediately discharge the employee, but upon the employee's request the court shall stay the discharge to permit further judicial proceedings.

5. If an employee organization or any of its officers is held to be in contempt of court for failure to comply with an injunction pursuant to this section, or is convicted of violating this section, the employee organization shall be immediately decertified, shall cease to represent the bargaining unit, shall cease to receive any dues by checkoff, and may again be certified only after twelve months have elapsed from the effective date of decertification and only after a new compliance with section 20.14. The penalties provided in this section may be suspended or modified by the court, but only upon request of the public employer and only if the court determines the suspension or modification is in the public interest.

6. Each of the remedies and penalties provided by this section is separate and several, and is in addition to any other legal or equitable remedy or penalty.

[C75, 77, 79, 81, §20.12]

Referred to in §20.10

20.13 Bargaining unit determination.

1. Board determination of an appropriate bargaining unit shall be upon petition filed by a public employer, public employee, or employee organization.

2. Within thirty days of receipt of a petition, the board shall conduct a public hearing, receive written or oral testimony, and promptly thereafter file an order defining the appropriate bargaining unit. In defining the unit, the board shall take into consideration, along with other relevant factors, the principles of efficient administration of government, the existence of a community of interest among public employees, the history and extent of public employee organization, geographical location, and the recommendations of the parties involved.

3. Appeals from such order shall be governed by the provisions of chapter 17A.

4. Professional and nonprofessional employees shall not be included in the same bargaining unit unless a majority of both agree.

[C75, 77, 79, 81, §20.13]

2010 Acts, ch 1165, §15

Referred to in §20.14

20.14 Bargaining representative determination.

1. Board certification of an employee organization as the exclusive bargaining representative of a bargaining unit shall be upon a petition filed with the board by a public employer, public employee, or an employee organization and an election conducted pursuant to section 20.15.

2. The petition of an employee organization shall allege that:

a. The employee organization has submitted a request to a public employer to bargain collectively on behalf of a designated group of public employees.

b. The petition is accompanied by written evidence that thirty percent of such public employees are members of the employee organization or have authorized it to represent them for the purposes of collective bargaining.

3. The petition of a public employee shall allege that an employee organization which has been certified as the bargaining representative does not represent a majority of such public

employees and that the petitioners do not want to be represented by an employee organization or seek certification of an employee organization.

4. The petition of a public employer shall allege that it has received a request to bargain from an employee organization which has not been certified as the bargaining representative of the public employees in an appropriate bargaining unit.

5. The board shall investigate the allegations of any petition and shall give reasonable notice of the receipt of such a petition to all public employees, employee organizations and public employers named or described in such petitions or interested in the representation questioned. The board shall thereafter call an election under section 20.15, unless:

a. It finds that less than thirty percent of the public employees in the unit appropriate for collective bargaining support the petition for decertification or for certification.

b. The appropriate bargaining unit has not been determined pursuant to section 20.13.

[C75, 77, 79, 81, §20.14]

2010 Acts, ch 1165, §16, 17

Referred to in §20.12, 20.15

20.15 Elections.

1. Upon the filing of a petition for certification of an employee organization, the board shall submit a question to the public employees at an election in the bargaining unit found appropriate by the board. The question on the ballot shall permit the public employees to vote for no bargaining representation or for any employee organization which has petitioned for certification or which has presented proof satisfactory to the board of support of ten percent or more of the public employees in the appropriate unit.

2. If a majority of the votes cast on the question is for no bargaining representation, the public employees in the bargaining unit found appropriate by the board shall not be represented by an employee organization. If a majority of the votes cast on the question is for a listed employee organization, then that employee organization shall represent the public employees in the bargaining unit found appropriate by the board.

3. If none of the choices on the ballot receive the vote of a majority of the public employees voting, the board shall conduct a runoff election among the two choices receiving the greatest number of votes.

4. Upon written objections filed by any party to the election within ten days after notice of the results of the election, if the board finds that misconduct or other circumstances prevented the public employees eligible to vote from freely expressing their preferences, the board may invalidate the election and hold a second election for the public employees.

5. Upon completion of a valid election in which the majority choice of the employees voting is determined, the board shall certify the results of the election and shall give reasonable notice of the order to all employee organizations listed on the ballot, the public employers, and the public employees in the appropriate bargaining unit.

6. *a.* A petition for certification as exclusive bargaining representative of a bargaining unit shall not be considered by the board for a period of one year from the date of the noncertification of an employee organization as the exclusive bargaining representative of that bargaining unit following a certification election. A petition for certification as the exclusive bargaining representative of a bargaining unit shall also not be considered by the board if the bargaining unit is at that time represented by a certified exclusive bargaining representative.

b. A petition for the decertification of the exclusive bargaining representative of a bargaining unit shall not be considered by the board for a period of one year from the date of its certification, or within one year of its continued certification following a decertification election, or during the duration of a collective bargaining agreement which, for purposes of this section, shall be deemed not to exceed two years. However, if a petition for decertification is filed during the duration of a collective bargaining agreement, the board shall award an election under this section not more than one hundred eighty days and not less than one hundred fifty days prior to the expiration of the collective bargaining agreement. If an employee organization is decertified, the board may receive petitions under section 20.14, provided that no such petition and no election conducted pursuant to

such petition within one year from decertification shall include as a party the decertified employee organization.

c. A collective bargaining agreement with the state, its boards, commissions, departments, and agencies shall be for two years and the provisions of a collective bargaining agreement or arbitrator's award affecting state employees shall not provide for renegotiations which would require the refinancing of salary and fringe benefits for the second year of the term of the agreement, except as provided in section 20.17, subsection 6, and the effective date of any such agreement shall be July 1 of odd-numbered years, provided that if an exclusive bargaining representative is certified on a date which will prevent the negotiation of a collective bargaining agreement prior to July 1 of odd-numbered years for a period of two years, the certified collective bargaining representative may negotiate a one-year contract with the public employer which shall be effective from July 1 of the even-numbered year to July 1 of the succeeding odd-numbered year when new contracts shall become effective.

[C75, 77, 79, 81, §20.15]
2010 Acts, ch 1165, §18
Referred to in §20.14, 602.1401

20.16 Duty to bargain.

Upon the receipt by a public employer of a request from an employee organization to bargain on behalf of public employees, the duty to engage in collective bargaining shall arise if the employee organization has been certified by the board as the exclusive bargaining representative for the public employees in that bargaining unit.

[C75, 77, 79, 81, §20.16]

20.17 Procedures.

1. The employee organization certified as the bargaining representative shall be the exclusive representative of all public employees in the bargaining unit and shall represent all public employees fairly. However, any public employee may meet and adjust individual complaints with a public employer. To sustain a claim that a certified employee organization has committed a prohibited practice by breaching its duty of fair representation, a public employee must establish by a preponderance of the evidence action or inaction by the organization which was arbitrary, discriminatory, or in bad faith.

2. The employee organization and the public employer may designate any individual as its representative to engage in collective bargaining negotiations.

3. Negotiating sessions, strategy meetings of public employers, mediation, and the deliberative process of arbitrators shall be exempt from the provisions of chapter 21. However, the employee organization shall present its initial bargaining position to the public employer at the first bargaining session. The public employer shall present its initial bargaining position to the employee organization at the second bargaining session, which shall be held no later than two weeks following the first bargaining session. Both sessions shall be open to the public and subject to the provisions of chapter 21. Parties who by agreement are utilizing a cooperative alternative bargaining process may exchange their respective initial interest statements in lieu of initial bargaining positions at these open sessions. Hearings conducted by arbitrators shall be open to the public.

4. The terms of a proposed collective bargaining agreement shall be made available to the public by the public employer and reasonable notice shall be given to the public employees by the employee organization prior to a ratification election. The collective bargaining agreement shall become effective only if ratified by a majority of those voting by secret ballot.

5. Terms of any collective bargaining agreement may be enforced by a civil action in the district court of the county in which the agreement was made upon the initiative of either party.

6. A collective bargaining agreement or arbitrator's award shall not be valid or enforceable if its implementation would be inconsistent with any statutory limitation on the public employer's funds, spending or budget or would substantially impair or limit the performance of any statutory duty by the public employer. A collective bargaining

agreement or arbitrator's award may provide for benefits conditional upon specified funds to be obtained by the public employer, but the agreement shall provide either for automatic reduction of such conditional benefits or for additional bargaining if the funds are not obtained or if a lesser amount is obtained.

7. If agreed to by the parties nothing in this chapter shall be construed to prohibit supplementary bargaining on behalf of public employees in a part of the bargaining unit concerning matters uniquely affecting those public employees or cooperation and coordination of bargaining between two or more bargaining units.

8. The salaries of all public employees of the state under a merit system and all other fringe benefits which are granted to all public employees of the state shall be negotiated with the governor or the governor's designee on a statewide basis, except those benefits which are not subject to negotiations pursuant to the provisions of section 20.9.

9. A public employee or any employee organization shall not negotiate or attempt to negotiate directly with a member of the governing board of a public employer if the public employer has appointed or authorized a bargaining representative for the purpose of bargaining with the public employees or their representative, unless the member of the governing board is the designated bargaining representative of the public employer.

10. The negotiation of a proposed collective bargaining agreement by representatives of a state public employer and a state employee organization shall be complete not later than March 15 of the year when the agreement is to become effective. The board shall provide, by rule, a date on which any impasse item must be submitted to binding arbitration and for such other procedures as deemed necessary to provide for the completion of negotiations of proposed state collective bargaining agreements not later than March 15. The date selected for the mandatory submission of impasse items to binding arbitration shall be sufficiently in advance of March 15 to ensure that the arbitrator's award can be reasonably made before March 15.

11. *a.* In the absence of an impasse agreement negotiated pursuant to section 20.19 which provides for a different completion date, public employees represented by a certified employee organization who are teachers licensed under chapter 272 and who are employed by a public employer which is a school district or area education agency shall complete the negotiation of a proposed collective bargaining agreement not later than May 31 of the year when the agreement is to become effective. The board shall provide, by rule, a date on which impasse items in such cases must be submitted to binding arbitration and for such other procedures as deemed necessary to provide for the completion of negotiations of proposed collective bargaining agreements not later than May 31. The date selected for the mandatory submission of impasse items to binding arbitration in such cases shall be sufficiently in advance of May 31 to ensure that the arbitrator's award can be reasonably made by May 31.

b. In the absence of an impasse agreement negotiated pursuant to section 20.19 which provides for a different completion date, public employees represented by a certified employee organization who are employed by a public employer which is a community college shall complete the negotiation of a proposed collective bargaining agreement not later than May 31 of the year when the agreement is to become effective. The board shall provide, by rule, a date on which impasse items in such cases must be submitted to binding arbitration and for such other procedures as deemed necessary to provide for the completion of negotiations of proposed collective bargaining agreements not later than May 31. The date selected for the mandatory submission of impasse items to binding arbitration in such cases shall be sufficiently in advance of May 31 to ensure that the arbitrator's award can be reasonably made by May 31.

c. Notwithstanding the provisions of paragraphs *"a"* and *"b"*, the May 31 deadline may be waived by mutual agreement of the parties to the collective bargaining agreement negotiations.

[C75, 77, 79, 81, §20.17]

89 Acts, ch 296, §8; 90 Acts, ch 1037, §3; 91 Acts, ch 174, §3; 92 Acts, ch 1011, §1; 92 Acts, ch 1212, §2; 92 Acts, ch 1227, §11; 2010 Acts, ch 1165, §19 - 22

Referred to in §20.1, 20.15, 20.22, 273.22, 275.33

State merit system, see chapter 8A, subchapter IV

20.18 Grievance procedures.

1. An agreement with an employee organization which is the exclusive representative of public employees in an appropriate unit may provide procedures for the consideration of public employee and employee organization grievances over the interpretation and application of agreements. Negotiated procedures may provide for binding arbitration of public employee and employee organization grievances over the interpretation and application of existing agreements. An arbitrator's decision on a grievance may not change or amend the terms, conditions, or applications of the collective bargaining agreement. Such procedures shall provide for the invoking of arbitration only with the approval of the employee organization in all instances, and in the case of an employee grievance, only with the additional approval of the public employee. The costs of arbitration shall be shared equally by the parties.

2. Public employees of the state or public employees covered by civil service shall follow either the grievance procedures provided in a collective bargaining agreement, or in the event that grievance procedures are not provided, shall follow grievance procedures established pursuant to chapter 8A, subchapter IV, or chapter 400, as applicable.

[C75, 77, 79, 81, §20.18]

86 Acts, ch 1118, §1; 2003 Acts, ch 145, §145; 2010 Acts, ch 1165, §23

Referred to in §235A.15, 279.19

20.19 Impasse procedures — agreement of parties.

1. As the first step in the performance of their duty to bargain, the public employer and the employee organization shall endeavor to agree upon impasse procedures. Such agreement shall provide for implementation of these impasse procedures not later than one hundred twenty days prior to the certified budget submission date of the public employer. However, if public employees represented by the employee organization are teachers licensed under chapter 272, and the public employer is a school district or area education agency, the agreement shall provide for implementation of impasse procedures not later than one hundred twenty days prior to May 31 of the year when the collective bargaining agreement is to become effective. If the public employer is a community college, the agreement shall provide for implementation of impasse procedures not later than one hundred twenty days prior to May 31 of the year when the collective bargaining agreement is to become effective. If the public employer is not subject to the budget certification requirements of section 24.17 and other applicable sections, the agreement shall provide for implementation of impasse procedures not later than one hundred twenty days prior to the date the next fiscal or budget year of the public employer commences. If the parties fail to agree upon impasse procedures under the provisions of this section, the impasse procedures provided in sections 20.20 to 20.22 shall apply.

2. Parties who by agreement are utilizing a cooperative alternative bargaining process shall, at the outset of such process, agree upon a method and schedule for the completion of impasse procedures should they fail to reach a collective bargaining agreement through the use of such alternative bargaining process.

[C75, 77, 79, 81, §20.19]

91 Acts, ch 174, §4; 92 Acts, ch 1011, §2; 92 Acts, ch 1227, §12; 2010 Acts, ch 1193, §107

Referred to in §20.17, 20.20

20.20 Mediation.

In the absence of an impasse agreement negotiated pursuant to section 20.19 or the failure of either party to utilize its procedures, one hundred twenty days prior to the certified budget submission date, or one hundred twenty days prior to May 31 of the year when the collective bargaining agreement is to become effective if public employees represented by the employee organization are teachers licensed under chapter 272 and the public employer is a school district or area education agency, the board shall, upon the request of either party, appoint an impartial and disinterested person to act as mediator. If the public employer is a community college, and in the absence of an impasse agreement negotiated pursuant to section 20.19 or the failure of either party to utilize its procedures, one hundred twenty days prior to May 31 of

the year when the collective bargaining agreement is to become effective, the board, upon the request of either party, shall appoint an impartial and disinterested person to act as mediator. If the public employer is not subject to the budget certification requirements of section 24.17 or other applicable sections and in the absence of an impasse agreement negotiated pursuant to section 20.19, or the failure of either party to utilize its procedures, one hundred twenty days prior to the date the next fiscal or budget year of the public employer commences, the board, upon the request of either party, shall appoint an impartial and disinterested person to act as a mediator. It shall be the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but the mediator may not compel the parties to agree.

[C75, 77, 79, 81, §20.20]

91 Acts, ch 174, §5; 92 Acts, ch 1011, §3; 92 Acts, ch 1227, §13; 2010 Acts, ch 1193, §108

Referred to in §20.19

20.21 Fact-finding. Repealed by 2010 Acts, ch 1165, § 31.

20.22 Binding arbitration.

1. If an impasse persists ten days after the mediator has been appointed, the board shall have the power, upon request of either party, to arrange for arbitration, which shall be binding. The request for arbitration shall be in writing and a copy of the request shall be served upon the other party.

2. Each party shall serve its final offer on each of the impasse items upon the other party within four days of the board's receipt of the request for arbitration. The parties may continue to negotiate all offers until an agreement is reached or an award is rendered by the arbitrator. The full costs of arbitration under this section shall be shared equally by the parties to the dispute.

3. The submission of the impasse items to the arbitrator shall be limited to those items upon which the parties have not reached agreement. With respect to each such item, the arbitrator's award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitrator.

4. Upon the filing of the request for arbitration, a list of five arbitrators shall be served upon the parties by the board. Within five days of service of the list, the parties shall determine by lot which party shall remove the first name from the list and the parties shall then alternately remove names from the list until the name of one person remains, who shall become the arbitrator. The parties shall immediately notify the board of their selection and the board shall notify the arbitrator. After consultation with the parties, the arbitrator shall set a time and place for an arbitration hearing.

5. The arbitrator shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed in this section.

6. From the time the board notifies the arbitrator of the selection of the arbitrator until such time as the arbitrator's selection on each impasse item is made, there shall be no discussion concerning recommendations for settlement of the dispute by the arbitrator with parties other than those who are direct parties to the dispute.

7. The arbitrator shall consider, in addition to any other relevant factors, the following factors:

a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.

b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.

d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

8. The arbitrator may administer oaths, examine witnesses and documents, take testimony and receive evidence, and issue subpoenas to compel the attendance of witnesses and the production of records. The arbitrator may petition the district court at the seat

of government or of the county in which the hearing is held to enforce the order of the arbitrator compelling the attendance of witnesses and the production of records.

9. The arbitrator shall select within fifteen days after the hearing the most reasonable offer, in the arbitrator's judgment, of the final offers on each impasse item submitted by the parties.

10. The selections by the arbitrator and items agreed upon by the public employer and the employee organization, shall be deemed to be the collective bargaining agreement between the parties.

11. The determination of the arbitrator shall be final and binding subject to the provisions of section 20.17, subsection 6. The arbitrator shall give written explanation for the arbitrator's selections and inform the parties of the decision.

[C75, 77, 79, 81, §20.22]

2008 Acts, ch 1032, §201; 2010 Acts, ch 1165, §24 – 29

Referred to in §20.19

20.23 Legal actions.

Any employee organization and public employer may sue or be sued as an entity under the provisions of this chapter. Service upon the public employer shall be in accordance with law or the rules of civil procedure. Nothing in this chapter shall be construed to make any individual or the individual's assets liable for any judgment against a public employer or an employee organization.

[C75, 77, 79, 81, §20.23]

20.24 Notice and service.

Any notice required under the provisions of this chapter shall be in writing, but service thereof shall be sufficient if mailed by restricted certified mail, return receipt requested, addressed to the last known address of the intended recipient, unless otherwise provided in this chapter. Refusal of restricted certified mail by any party shall be considered service. Unless otherwise provided in this chapter, prescribed time periods shall commence from the date of the receipt of the notice. Any party may at any time execute and deliver an acceptance of service in lieu of mailed notice.

[C75, 77, 79, 81, §20.24]

2010 Acts, ch 1165, §30

20.25 Internal conduct of employee organizations.

1. Every employee organization which is certified as a representative of public employees under the provisions of this chapter shall file with the board a registration report, signed by its president or other appropriate officer. The report shall be in a form prescribed by the board and shall be accompanied by two copies of the employee organization's constitution and bylaws. A filing by a national or international employee organization of its constitution and bylaws shall be accepted in lieu of a filing of such documents by each subordinate organization. All changes or amendments to such constitutions and bylaws shall be promptly reported to the board.

2. Every employee organization shall file with the board an annual report and an amended report whenever changes are made. The reports shall be in a form prescribed by the board, and shall provide the following information:

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

b. The name and address 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.

3. The constitution or bylaws of every employee organization shall provide that:

a. Accurate accounts of all income and expenses shall be kept, and annual financial report and audit shall be prepared, such accounts shall be open for inspection by any member of the organization, and loans to officers and agents shall be made only on terms and conditions available to all members.

b. Business or financial interests of its officers and agents, their spouses, minor children, parents or otherwise, that conflict with the fiduciary obligation of such persons to the organization shall be prohibited.

c. Every official or employee of an employee organization who handles funds or other property of the organization, or trust in which an organization is interested, or a subsidiary organization, shall be bonded. The amount, scope, and form of the bond shall be determined by the board.

4. The governing rules of every employee organization shall provide for periodic elections by secret ballot subject to recognized safeguards concerning the equal right of all members to nominate, seek office, and vote in such elections, the right of individual members to participate in the affairs of the organization, and fair and equitable procedures in disciplinary actions.

5. The board shall prescribe rules necessary to govern the establishment and reporting of trusteeships over employee organizations. Establishment of such trusteeships shall be permitted only if the constitution or bylaws of the organization set forth reasonable procedures.

6. An employee organization that has not registered or filed an annual report, or that has failed to comply with other provisions of this chapter, shall not be certified. Certified employee organizations failing to comply with this chapter may have such certification revoked by the board. Prohibitions may be enforced by injunction upon the petition of the board to the district court of the county in which the violation occurs. Complaints of violation of this section shall be filed with the board.

7. Upon the written request of any member of a certified employee organization, the auditor of state may audit the financial records of the certified employee organization.

[C75, 77, 79, 81, §20.25]

20.26 Employee organizations — political contributions.

An employee organization shall not make any direct or indirect contribution out of the funds of the employee organization to any political party or organization or in support of any candidate for elective public office.

Any employee organization which violates the provisions of this section or fails to file any required report or affidavit or files a false report or affidavit shall, upon conviction, be subject to a fine of not more than two thousand dollars.

Any person who willfully violates this section, or who makes a false statement knowing it to be false, or who knowingly fails to disclose a material fact shall, upon conviction, be subject to a fine of not more than one thousand dollars or imprisoned for not more than thirty days or shall be subject to both such fine and imprisonment. Each individual required to sign affidavits or reports under this section shall be personally responsible for filing such report or affidavit and for any statement contained therein the individual knows to be false.

Nothing in this section shall be construed to prohibit voluntary contributions by individuals to political parties or candidates.

Nothing in this section shall be construed to limit or deny any civil remedy which may exist as a result of action which may violate this section.

[C75, 77, 79, 81, §20.26]

20.27 Conflict with federal aid.

If any provision of this chapter jeopardizes the receipt by the state or any of its political subdivisions of any federal grant-in-aid funds or other federal allotment of money, the provisions of this chapter shall, insofar as the fund is jeopardized, be deemed to be inoperative.

[C75, 77, 79, 81, §20.27]

20.28 Inconsistent statutes — effect.

A provision of the Code which is inconsistent with any term or condition of a collective bargaining agreement which is made final under this chapter shall supersede the term or condition of the collective bargaining agreement unless otherwise provided by the general assembly. A provision of a proposed collective bargaining agreement negotiated according to this chapter which conflicts with the Code shall not become a provision of the final collective bargaining agreement until the general assembly has amended the Code to remove the conflict.

[C79, 81, §20.28]

20.29 Filing agreement — public access.

Copies of collective bargaining agreements entered into between the state and the state employees' bargaining representatives and made final under this chapter shall be filed with the secretary of state and be made available to the public at cost.

[C79, 81, §20.29]

20.30 Supervisory member — no reduction before retirement.

A supervisory member of any department or agency employed by the state of Iowa shall not be granted a voluntary reduction to a nonsupervisory rank or grade during the six months preceding retirement of the member. A member of any department or agency employed by the state of Iowa who retires in less than six months after voluntarily requesting and receiving a reduction in rank or grade from a supervisory to a nonsupervisory position shall be ineligible for a benefit to which the member is entitled as a nonsupervisory member but is not entitled as a supervisory member.

The provisions of this section shall be effective during the collective bargaining agreement in effect from July 1, 1979 to June 30, 1981.

[C81, §20.30]

20.31 Mediator privilege.

1. As used in this section, unless the context otherwise requires:

a. *"Mediation"* means a process in which an impartial person attempts to facilitate the resolution of a dispute by promoting voluntary agreement of the parties to the dispute. Mediation shall be deemed to commence upon the mediator's receipt of notice of assignment and shall be deemed to conclude when the dispute is resolved.

b. *"Mediator"* means a member or employee of the board or any other person appointed or requested by the board to assist parties in resolving disputes involving collective bargaining impasses, contested cases, other agency cases, or contract grievances.

2. A mediator shall not be required to testify in any judicial, administrative, or grievance proceeding regarding any matters occurring in the course of a mediation, including any verbal or written communication or behavior, other than facts relating exclusively to the timing or scheduling of mediation. A mediator shall not be required to produce or disclose any documents, including notes, memoranda, or other work product, relating to mediation, other than documents relating exclusively to the timing or scheduling of mediation. This subsection shall not apply in any of the following circumstances:

a. The testimony, production, or disclosure is required by statute.

b. The testimony, production, or disclosure provides evidence of an ongoing or future criminal activity.

c. The testimony, production, or disclosure provides evidence of child abuse as defined in section 232.68, subsection 2.

98 Acts, ch 1062, §7