

MINUTES OF THE REGULAR MEETING
of the
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday, February 10, 1976, 7:10 a.m.

Place of Meeting: Senate Committee Room 24, State Capitol, Des Moines, Iowa.

Members Present: Senator Berl E. Priebe, Chairman, Senators E. Kevin Kelly, Minnette Doderer, Representatives W. R. Monroe, Jr., Vice Chairman, Donald V. Doyle and Laverne Schroeder.
Also present: David Charles and Charles Riekema,
Research Assistants
Wayne A. Faupel, Code Editor.

BANKING DEPT.
IRA Programs

Thomas Huston, Superintendent of Banking, explained filed emergency amendments published IAC Supplement 1/26/76: Interest on time and savings accounts, 8.2(2); Payment of time deposits before maturity, 8.5(4). Both amendments related to individual retirement accounts. The Committee made no recommendations.

CONSERVATION
Ch 108

Kenneth Kakac, Superintendent of Law Enforcement, represented the Conservation Commission for review of filed emergency rules 108.1 and 108.2--1976-77 fishing season. Said rules were published in IAC Supplement 1/26/76. Kakac said the dates vary slightly from last year's and a bass size limit would be established in certain small impoundments of the state.

Priebe raised question as to the necessity for filing the rules under emergency provisions of Chapter 17A of the Code. Kakac pointed out that by statute seasons are based on biological balance. Following the normal rulemaking procedure would involve too much time. The biological surveys are conducted, rules drafted and pamphlets are printed to distribute with the licenses.

Monroe urged the department to anticipate thirty days ahead of their rulemaking.

REGENTS BOARD
Ch 11

Wayne Richey, Executive Secretary, Board of Regents, appeared for review of Chapter 11--Administrative Procedure. Said rules were filed 12/23/75 and published in IAC Supplement 1/12/76. Richey reiterated that Chapter 11 is routine procedural rules of the Board.

Monroe took the position that 11.1(7)--general rule and scope of regent institutions--was unnecessary and of no use. No formal recommendations were made by the Committee.

ENVIRONMENTAL
QUALITY

David Bach and Dean Powell, Hearings Officers, William Anderson, Complaints Monitoring Division, represented the Department of Environmental Quality for review of the following filed rules:

ENVIRONMENTAL QUALITY DEPT.[400]	
Air quality, confidentiality rule rescinded, 2.1(4)	1/12/76
Air quality, certification of pollution control property, 12.2, Emergency	1/12/76
Water quality, forms, procedure, Ch 24	1/12/76
Solid waste disposal, procedure, Ch 32	1/12/76
Administrative procedure, organization, 50.4, 50.6, Filed without notice	1/12/76
Administrative procedure, contested cases, Ch 55	1/12/76

In response to question by Monroe, Bach indicated the amendment to 12.2 was initiated by the Department--no one from the public had suggested the change.

Bach noted that the substance of 2.1(4) had been transferred to Chapter 52 of their rules.

Discussion of 32.3(4) "b"(1) in re application for exception from solid waste disposal rules as to time of notifying the applicant prior to hearing if his appearance is required. Schroeder recommended increasing the time from "10 days" to "30 days".

Anderson pointed out the change would result in conflict with 32.3(3) and the suggestion of "15 days" by Schroeder was acceptable to the Department representatives.

Brief discussion of 55.5(1) "d" pertaining to content of preliminary notice with respect to informal procedure prior to commencement.

Chapter 24 and rules 50.4 and 50.6 were acceptable to the Committee as filed.

LAW ENFORCE-
MENT ACADEMY

John Callaghan, Director, Law Enforcement Academy, was present for review of filed rule amending 1.1(2) and 1.1(6) and proposed rescission of 1.2(2) and 1.2(3).

Discussion of 1.1(6) which provided:

Amend 1.1(6) to read as follows: "Is of good moral character as determined by a thorough background investigation including a fingerprint search conducted of local, state and national fingerprint files and has not been convicted of a felony or a crime involving moral turpitude. When the hiring authority is prohibited from receiving criminal history data as specified under chapter 749B of the Code, then the fingerprints will be taken by a police department under civil service, a sheriff's department or a state law enforcement agency and submitted to the Iowa law enforcement academy director for search".

Schroeder raised question as to the use of "moral turpitude" inasmuch as it is an indefinite term. It was his opinion the words should be deleted.

LAW ENFORCEMENT Callaghan emphasized they "do not want to let down the
ACADEMY Cont'd barriers when hiring officers whose principle duty it is to
protect the public."

Doderer commented that all references to crimes involving
"moral turpitude" have been removed from the licensing laws.

Kelly added that good moral character does not have a basis
of fact in history of law but moral turpitude does have meaning
in court case law.

Doderer requested that Callaghan furnish the Committee a list
of offenses covered by case law.

In response to Doderer, Callaghan indicated there is no
standard to follow in regard to height of law enforcement
officers since historically none shorter than 5' 7" have
been hired. He added that consideration is being given to
setting a nationwide agility standard wherein applicants
would be required to perform task-related functions.

Schroeder questioned Callaghan as to the availability of the
rules and was told they are furnished to every law enforce-
ment agency in the state.

Motion

Schroeder moved the following objection to 1.1(6):

"We object to the portion of 1.1(6) which provides
that no person shall be recruited, selected or
appointed as a law enforcement officer if such
person has been convicted of a felony or crime
involving moral turpitude. The provision is ar-
bitrary inasmuch as 'moral turpitude' is an in-
definite term and should be defined."

The objection could be overcome by defining "moral turpitude"
in a new paragraph added to 1.1(6).

The Schroeder motion carried with 5 ayes. Kelly voted "no."

Schroeder questioned Callaghan concerning educational
requirements for law enforcement officers. Callaghan
expressed the opinion that the trend is to increase such
requirements.

BLIND, COMMISSION
FOR

At the request of the Committee, Dr. Kenneth Jernigan,
Director of the Commission for the Blind, was present.
Dr. Jernigan acknowledged there were inconsistencies in
the Commission rules which were filed originally in 1960.
He assured the Committee revisions will be submitted in
the near future.

BLIND Cont'd

Doderer suggested the Commission should write detailed rules on their public employment process and procedure followed when working with clients.

Committee members agreed to notify Jernigan of other suggestions for updating the rules.

Jernigan assured the Committee that revised rules would be formulated for review in July or August this year.

INSURANCE
Securities

Marshall Hunzelman, Securities Division, represented the Insurance Department for review of filed rules 50.1(502) to 50.59(502) pertaining to registration and operation of broker-dealers. Said rules were published in IAC Supplement 1/26/76 and are intended to implement 66GA, ch 234.

Hunzelman said the rules had been modified to conform with suggestions offered by this Committee and in response to oral and written submissions from the public. Substantive changes were made in 50.2 to eliminate the "grandfather" status for certain principals. Certain other portions of the rules were not filed pending further study.

Kelly recommended that 50.1(2) be amended by adding at the beginning the words "In lieu of subrule 50.1(1),"... Subrule 50.1(2) provides an alternative but it is not indicated. In answer to Kelly concerning 50.2(4), Hunzelman said the dealer must be registered.

Discussion of 50.8--qualification of agents.

Kelly thought the rule should provide for separate test for agents of issuer as opposed to broker-dealer test. Hunzelman doubted the necessity of such an amendment.

Questions were raised by the Committee on the following:

510--50.19(502) Annual report to shareholders. So long as a registration statement is effective, within one hundred and twenty days following the close of each fiscal year the registrant shall distribute an annual report to all holders of securities who purchased pursuant to the registration. Said annual report shall contain a comparative balance sheet, income statement and statement of changes in financial position, all of which must be audited by an independent certified public accountant with an opinion expressed thereon. Upon application to the administrator with good cause shown the audit by an independent certified public accountant and opinion pertaining thereto may be waived.

Kelly took the position the rule was "unreasonable." He contended it would subject companies to printing and mailing expenses without benefit to most shareholders.

Kelly recommended that the rule be amended by inserting at the end of the first sentence the words "and send a copy to the administrator"; by striking from line 5 the words "all of which must be" and striking all of lines 6, 7 and 8

INSURANCE
Cont'd

and inserting the words "all based upon financial information derived from an audit report of an independent certified public accountant. Said annual report shall prominently state that an audit report is available without charge upon request."

Hunzelman was reluctant to accept the change arguing that the "CPA provides a great service to the investor by reviewing these reports." He stressed the importance of the footnote information which is not found on a balance sheet. He concluded that the audited annual report is the only way to ensure the shareholder full and fair disclosure.

Objection
50.19

Kelly moved to object to 50.19 on the basis that the rule is beyond the scope of authority in the Code of Iowa and that it is unreasonable. The objection could be overcome by amending the rule as recommended by the Committee.
Motion carried.

In re trust indenture requirements in 50.26(2)"d", Kelly recommended that the last sentence be stricken and the following substituted: "As used in this rule, 'conflicting interest' shall mean conflicting interest as defined in section 310B of the Trust Indenture Act of 1939 as amended which section is hereby incorporated by reference as part of these rules."

Hunzelman was willing to accept the proposal.

Kelly raised question as to authority delegated to the administrator in 50.26(3). In his opinion, there seemed to be a "separate standard" and the rule needed clarification.

In re registration statement, Kelly interpreted 1. to be in conflict with 2. in 50.28(502).

With respect to impoundment of proceeds from the sale of securities by the administrator--50.31(1)', Kelly thought an attempt should be made to write guidelines as to when the administrator deems impoundment necessary.

Kelly thought the "seven percent" figure relating to selling expenses was excessive--50.34(1)a. Hunzelman remarked that lawyers and others have taken the position seven percent is too low.

Discussion of 50.35(502)--offering price; 50.38(3)e and 50.38(5)d(3)--options and warrants; 50.39(1)--offering or sale of preferred stock; 50.40(2)--voting rights.
No recommendations were offered by the Committee.

Kelly recommended that rules 50.43--fraudulent practices and 50.44--capitalization be transposed to precede 50.41--investment

INSURANCE
Cont'd

companies and 50.42--real estate investment trusts.

Kelly raised question as to the seemingly "negative approach" in 50.44 which provided:

510--50.44(502) Capitalization. The offering or sale of one class of securities may be deemed unfair and inequitable to purchasers if the aggregate amount of the class of securities being offered is unreasonable in relation to the aggregate amount of other classes of outstanding securities of the issuer, consideration being given to the nature of the issuer's business and to other relevant factors. An offering of debt securities or preferred stock is presumed unreasonable if the aggregate amount of stockholders' equity and junior securities is less than fifty percent of the aggregate amount of the class of securities being offered, or if the offering is not justified by the prevailing debt-equity ratios in the issuer's industry or by the issuer's history of interest or dividend coverage. For the purposes of this rule, in determining whether the offering is justified by the prevailing debt-equity ratio in the issuer's industry, any ratio imposed upon the issuer by statute shall be considered.

There was considerable discussion of 50.44 which Hunzelman said was patterned from the Wisconsin rule on the subject of capitalization.

Kelly questioned how "prevailing debt-equity ratios" are determined. He thought "classes of securities" needed definition.

Committee members concurred the rule should follow more closely to SEC rules and co-ordinate with other states to seek uniformity of interpretation as intended by the Uniform Act.

Objection
50.44

Kelly moved to object to 50.44 on the basis that the Department made an unreasonable presumption and that the rule exceeds statutory authority. Motion carried. Monroe not voting. The Committee did not offer substitute language for the rule.

Hunzelman pointed out that many states do not have an administrative procedures Act and have not promulgated rules.

Priebe and Schroeder raised question concerning 50.56--registration of publicly offered cattle feeding programs, particularly the history of operations and reporting requirements in subrule 50.56 (20).

In answer to question by Schroeder, Hunzelman said averages would be based over an entire year.

Hunzelman said the rule was copied from those of Texas and that virtually all states having securities rules have adopted it.

Priebe and Schroeder agreed the information required in the rule could be meaningless and very misleading.

Hunzelman noted that Iowa does not have a cattle feeding program described in the rule but in the event a company came into the state, we would need guidelines.

Kelly acknowledged some information should be available in a modified rule.

INSURANCE
Cont'd

Discussion of 50.58(8) as to disclosure and marketing requirements regarding real estate programs. Certain restrictions would be placed on sales promotional efforts, e.g., in connection with the offer or sale of program interests, no general offer could be made for free trips to visit property. No recommendations were made by the Committee.

Bob Simons, Assistant Counsel, Postal Finance, Sioux City, spoke of his concurrence with the position of the Committee in objecting to rule 50.19 and 50.44.

Mel Struthers, Moramerica Financial Corporation, commented as to the effect of the rules and the cost which, in his opinion, would revert to the borrower, consumer and taxpayer. He said they participated in the hearings held by the Insurance Department and directed attention to 50.26--trust indenture requirements. They were opposed to the cost involved without proportionate protection to the public. He quoted from the departmental brief as to their reasons for adoption of the rule in question and a primary point of the Department was protection to the public. The brief cited three reasons for the rule which he repeated: 1. To provide full and fair disclosure not only at the time of the issue of the security but throughout the life of the security. Struthers pointed out full disclosure is required without the trust indenture. 2. Provide machinery whereby such continuing disclosure may be made to security holders and whereby they may get together for the protection of their own interests. Struthers pointed out that an attorney can represent a group of persons without trust indenture just as a trustee does. 3. Ensure that the securities holders will have the services of a disinterested indenture trustee and that such trustee conforms to the high standards of conduct now observed by the more conscientious trust institutions.

Struthers continued that banks, savings and loan institutions and credit unions do not use trust indentures--they are exempt from the law and rules. He added that since their corporation is not exempt, they estimate the cost of using the trust indenture to be about \$1,000 monthly. He questioned whether the rule in question was a standard one and respectfully urged the Committee to recommend that, if there is a standard trust indenture procedure in other states, the Insurance Department adopt it.

Hunzelman said the material quoted from the Insurance Department brief was from the Congressional Record.

Schroeder suggested that under Chapter 17A, twenty-five interested persons can petition the Department to re-evaluate the situation and modify the rule in question.

INSURANCE Hunzelman pointed out that other states have trust indenture
Cont'd requirements but do not have them in rule form.

The Committee doubted there was basis for objection to the rule.

PUBLIC EMPLOY- Edward Kolker, Chairman of Public Employment Relations Board,
MENT RELATIONS briefly explained their amendment to 7.4(5) which was filed
BOARD under emergency provisions of Chapter 17A of the Code and
published in IAC Supplement 1/26/76. The amendment removed
the provision for closed meetings with respect to fact-finding
hearings.

The Committee made no recommendations.

PUBLIC Dr. Richard Smith, Deputy Superintendent of Public Instruction,
INSTRUCTION was present for review of revised rule 9.15(280) relating to
Athletics interscholastic athletics. A new paragraph was added to
9.15(6)g 9.15(6) as follows:

g. A student who completes the ninth grade in a public or non-
public school may change from a public school system to a non-
public school system or from a nonpublic school system to a
public school system and be eligible upon entering the tenth
grade.

Said rule was published in IAC Supplement 1/26/76 to become
effective March 1, 1976.

Doderer asked that the Department submit for review in July
or August all rules governing athletics. Smith told Doderer
the Department is restricted to section 280.13 of the Code for
rulemaking in this area.

REVENUE John French, Hearing Officer, and Brian Bruner, Superintendent
Chs. 18, 53 of Elderly Tax Credit, appeared before the Committee for
and 73 review of the following filed rules published in IAC Supplement
1/26/76: Advertising agencies, sales and use tax--18.27;
Corporation income tax, consolidated returns--53.13;
property tax reimbursement, elderly and disabled--Chapter 73.

Discussion of 18.27 which was drafted through assistance of
the Artist Director Association of Iowa. It is anticipated
the rule will provide more equitable taxation of advertising
agencies, commercial artists and designers.

The amendment to 53.13 was filed under emergency provisions
since corporations affected by it needed guidelines for the
tax season, according to French.

The Committee made no recommendations for changes in the
three sets of Revenue rules.

Recess Chairman Priebe recessed the meeting at 12:05 p.m. and
Reconvened reconvened it at 1:15 p.m. Monroe out of the room.

SOCIAL
SERVICES

The following rules of the Social Services Department were before the Committee for consideration:

Filed rules published 1/12/76--78.13 Transportation to receive medical assistance; Chapter 102 Training school for girls; 137.9 Foster care, payment.

Proposed rules published under Notice as follows:

Penitentiary, visiting, 17.2(8)	1/12/76
Men's reformatory, visiting, 18.2	1/12/76
Interstate compact, parolees and probationers, Ch 27	1/12/76
Mental health treatment, Ch 28	1/12/76
Aid to dependent children, 41.1	1/12/76
Supplementary assistance, application, Ch 50	1/12/76
Supplementary assistance, eligibility, Ch 51	1/12/76
Supplementary assistance, payment, Ch 52	1/12/76
Food stamp program, Ch 65	1/12/76
Child support recovery, collections, Ch 95	1/12/76
Nonassistance child support recovery, Ch 96	1/12/76
Family day care homes, Ch 110	1/12/76
Resources, general provisions, Ch 130	1/12/76
Veterans home, Ch 134	1/12/76
Foster care, Ch 137	1/12/76
Family planning services, Ch 140	1/12/76
Homemaker—home health aide services, Ch 144	1/12/76
Student loan and grant program, Ch 146	1/12/76

Representing the Department were: Howard Seëley and Judith Welp, Bureau of Income Maintenance; Eugene Fitzsimmons, Acting Chief, Bureau of Family and Adult Services; Harold Poore, Day Care Specialist.

78.13

An amendment to 78.13 filed under emergency provisions of the Code would place a maximum of \$25 which could be paid to a recipient for transportation to receive medical care.

Responding to question by Schroeder, Welp said that individuals living within the city limits are covered by the transportation allowance in the regular ADC grants.

It was noted that the Committee objection to 78.13 filed 11/18/75 and published IAC Supplement 12/1/75 would remain.

In re medical assistance generally, Priebe thought that pharmacists should be allowed to fill prescriptions with "generic drugs" to reduce costs. Welp indicated legislation would be needed before Rule 78.2 could be amended. The rule limits prescriptions to "legend drugs."

Ch 102

Chapter 102 was acceptable as filed.

Ch 137

Welp pointed out that 137.9 had been reworded for clarity as recommended by the Committee. She indicated that additional rules governing foster care for children were being drafted.

Doderer expressed an opinion that additional rules for the juvenile institutions should be submitted by the Department

2-10-76

SOCIAL under Chapter 17A. An attorney general opinion excluding these
SERVICES institutions from the definition of "penal institutions is
Cont'd reproduced herein.

Department of Justice

RICHARD C. TURNER
ATTORNEY GENERAL
STEPHEN C. ROBINSON
SPECIAL ASSISTANT ATTORNEY GENERAL
MICHAEL P. MURPHY
ASSISTANT ATTORNEY GENERAL
THEODORE C. BOECKER
ASSISTANT ATTORNEY GENERAL
STEPHEN P. O'MEARA
ASSISTANT ATTORNEY GENERAL

ADDRESS REPLY TO:
LEGAL SERVICES
DEPARTMENT OF SOCIAL SERVICES
DES MOINES, IOWA 50319
LUCAS STATE OFFICE BUILDING
TELE. (515) 281-5316

February 9, 1976

The Honorable Minnette Doderer
State Senator
The Senate
Capitol Building
Des Moines, Iowa 50319

LOCAL

Dear Senator Doderer:

You recently asked this office for:

a precise definition of what constitutes
a penal institution and whether or not
this term covers the Juvenile Home and
the Training Schools for Girls and Boys.

We are of the opinion that the term "penal institution" does not
include the Juvenile Home or Training Schools. Appeal of Bailey,
262 A.2d 177, 179, 158 Conn. 439 (1969); Marks v. State, 102 P.
2d 955, 956, 69 Okl.Cr. 330 (1940); Newman v. Wright, 29 S.E.2d
155, 157, 126 W.Va. 502 (1944).

Penal pertains to punishment whereas §242.2, Code of Iowa, 1975,
empowers the superintendent at the training schools to "use his
best endeavors to reform the pupils in his care." 60 Am.Jur.2d,
Penal and Correctional Institutions, §1, provides the following
definitions:

"The words 'penal institution' and 'prison'
are generic terms comprising places main-
tained by public authority for the detention
of those confined under legal process, whether
criminal or civil, and whether the imprison-
ment is for the purpose of insuring the pro-
duction of the prisoner to answer in future
legal proceedings, or whether it is for the

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The Honorable Minnette Doderer
State Senator

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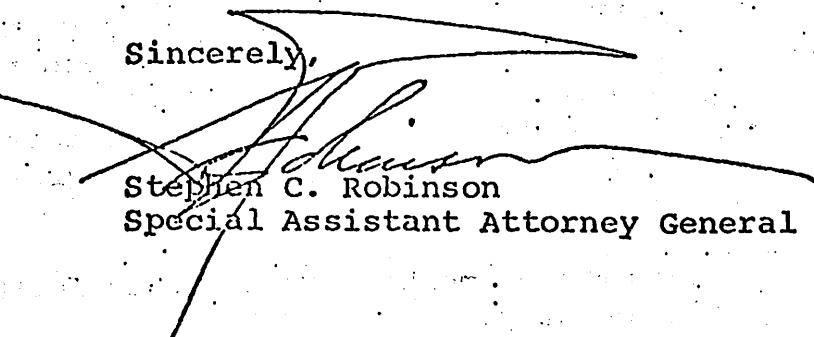
purpose of punishment for an offense of which the prisoner has been duly convicted and for which he has been duly sentenced. The term 'correctional institution' refers to industrial schools, reform schools, and similar institutions whose purpose is generally educational and reformatory rather than penal, although their inmates are restrained of liberty. A 'penitentiary' is a prison or place of imprisonment in which convicts sentenced to hard labor are confined by authority of law. ..."

We certainly agree with the conclusion reached in your letter, to-wit:

"While the State Penitentiary, Women's Reformatory and Men's Reformatory are clearly penal institutions, I question the extension of this term to cover the other institutions set forth in Section 218.1 of the Code. Indeed, these first three facilities are listed under the heading 'Penal' in the index to the Code and are controlled by the Director of the Division of Corrections. I would note that the other institutions are controlled by other divisions of the Department and are accorded generally different treatment in the Code.

"It is clear that all of the institutions are not of the same character. The distinctions among the facilities have long been recognized by the Legislature, the Department and the citizens of Iowa. To group the Juvenile Home and Training Schools along with the Penitentiary, Women's Reformatory and Men's Reformatory as penal institutions at this time would require a significant step backward."

Sincerely,



Stephen C. Robinson
Special Assistant Attorney General

RCT:SCR:djs

2-10-76

SOCIAL
SERVICES

No recommendations were made for 17.2(8) and 18.2 which modified visiting privileges at the penitentiary and men's reformatory. There was no discussion of proposed Chapter 27.

Mental
Health
Institu-
tions

In re Chapter 28, Priebe indicated he had received correspondence concerning possible infringement on patients rights when they are required to perform menial labor.

Schroeder pointed to 28.4(24) which provided that "patients rights shall be publicly posted in each institution." He asked if hospitals were aware of the rule and Welp answered that copies of the rules are furnished to them.

ADC

Priebe was concerned as to possible duplication of benefits for supplemental security income in 41.1.

Supplement-
ary Ass't

Discussion of supplementary assistance program--Chapters 50 to 53. Schroeder thought that if a family provides care for a dependent relative, some provision should be made for reimbursement.

Welp stated that it would be necessary for them to revise some of the rules after the Health Department has developed the rules on Care Facilities.

Priebe voiced opposition to 50.3 as to the provision that "payment ... shall be made upon approval for the full month in which application is made, when the applicant is eligible for any part of that month." He noted discrepancy between 50.3(1) and 50.3(2) in that payment for custodial care would be effective as of the date of application or date of eligibility, whichever is later. He favored language similar to that in 52.1(3) where per diem rates would be established for each home participating in the program.

Department officials were not sure if this would be possible because of federal guidelines.

Priebe wondered if 51.4(3) could be applicable for only one day.

Kelly raised question as to payment for care in a licensed facility out of state as in border cities [51.3(1)].

Schroeder was concerned about care facilities whose licenses were under suspension. Welp agreed to research the matter of provisional licenses.

Committee members agreed that further study of the rules was necessary.

Food Stamp
Program

There were no recommendations for rules governing the administration of the food stamp program in accordance with federal regulations, being Chapter 65.

SOCIAL
SERVICES
Cont'd

Discussion of Chapter 95 with respect to the department's entitlement to payment in a paternity action.
No recommendations were made by the Committee.

Child Support Recovery Welp explained that with rules 96.1 to 96.6, the services of the child support recovery unit can be extended to persons who are not receiving ADC. Said services are available for an initial application fee of \$20, plus a continuing fee of ten percent of the amount collected.

Charles expressed the opinion that 96.2 seemed to "modify a court decree without going to court."

In re payment of fees in 96.6, Charles asked if there was a reason the application fee could not be paid in cash. Department officials were not sure whether cash would be acceptable.

Charles noted the provision relating to termination of services in 96.4 was unclear as to what was meant by "in process."

Welp responded that if settlement were imminent, they would complete it before termination of service.

Family Day
Care Homes

In re 110.5(5) which limited the number of children in any one family day care home to six, Schroeder asked if this restriction would create problems. Welp pointed out that if more than six children are cared for, the home would have to be licensed as a child care center.

2:20 p.m.

Monroe returned.

Social
Services
Resources
General

In re Chapter 30, Priebe requested the Department to furnish the Committee with comparative figures from surrounding states on media income and how they were established.

Monroe asked that the Department explore as to workability the following amendment to 130.1--defining "Family": Amend the last sentence to read, "An individual living alone or with unrelated persons on whose income they are not dependent is considered a one-person family."

Charles pointed out there are ramifications to the proposed language.

Veterans
Home

Monroe pointed out that 134.3(2) needed latitude with respect to drugs being "permitted on the grounds."

Typographical errors were pointed out as follows:

134.2(3)a, line 1, substitute "is" for "as".

134.3(1), line 1, substitute "p.m." for "a.m." following "11:00".

- SOCIAL SERVICES Cont'd
Foster Care
Payment
- Monroe questioned Department officials as to the amount of subsidies involved in the emergency foster care program.
- Schroeder took the position that 137.13 as written would provide no incentive for a child to develop a savings plan.
- Welp said the income provided in the rule is intended for the child when age of majority is reached.
- Family
Planning
- Discussion of 140.4--direct referrals. Monroe quoted from §234.24 of the Code and suggested that 140.4 be amended by inserting in line 3 before "information" the words "family planning".
- Chapter 144
- Committee made no recommendations for change of Chapter 144.
- Student Loan &
Grants
- Discussion of eligibility for student loan and grant program. Priebe voiced concern over the "fifty miles" limitation in 146.1(4) and other members agreed the rule should be clarified.
- Section 234.15 of the Code was cited as authority for the Department to make application to and receive funds from the U.S. Secretary of Agriculture to carry out the program, said funds coming from the trust assets of the Iowa Rural Rehabilitation Corporation now dissolved.
- Doderer raised question as to the rule being discriminatory since it applied only to rural students. She wanted additional time to study the matter and to confer with Washington officials.
- 110.7(1)
- Monroe called attention to 110.7(1) which pertained to denial or revocation of registration of a family day care home "if any hazard to the safety and well-being of a child is found by the department of social services, even though such hazard may not have been specifically listed under the health and safety rules." He stated he would object to the rule if it is not modified. He suggested that grounds for denial or revocation could be when the home refuses to correct such hazard.
- 51.3(3)e
- Monroe suggested that 51.3(3)e indicate a monthly basis if that was the intent. Said paragraph related to spouse's income being considered in determining eligibility for custodial care.
- 96.2
- Doyle recommended that 96.2, in re child support obligation be amended to permit the assistance of a lawyer for parties seeking modification of the recovery unit determination.

SOCIAL SERVICES Joe Morrissey, American Friends Service Committee, commented on the proposed rules. He voiced opposition to revised 41.1(5) in re special needs of ADC recipients. He recalled several special need allowances provided under the former rule, e.g., furnace repair, tree removal and child care.

Contd

Welp stated that a public hearing concerning the rules would be held March 30.

It was noted the Department had not promulgated rules for their hearing procedure.

Morrissey took the position the hearing should be held in a location more accessible to persons involved.

Monroe out of the room.

LABOR BUREAU
Amusement
Rides

Dennis Downing, Hearing Officer, represented the Bureau of Labor for review of proposed amendments to rules governing amusement rides, being Chapters 61 and 62, published in IAC Supplement 1/26/76. The rules would essentially update references to the National Fire Protection Association Code.

The Committee offered no suggestions.

NURSING BOARD

Lynne Illes, Executive Secretary, Board of Nursing Examiners, was present for review of proposed amendments to Chapters 1, 3 and 4 of their rules. The amendments would allow granting full accreditation for a nursing program in three years.

In response to question by Schroeder, Illes said the national trend is for diploma schools which are hospital-based to be phased out. There has been an increase in the two-year and four-year programs.

No recommendations were offered by the Committee.

PAROLE BOARD

John Bedell, Silas Ewing, Board of Parole members; Farrell Turner, Liaison Officer; Thomas McGrane, Assistant Attorney General and Ray Cornell, Prison Ombudsman, appeared before the Committee to explain proposed rules of the Board of Parole published in IAC Supplement 1/26/76.

Kelly out of the room.

Bedell said that question had been raised as to whether the proposed rules would be within the purview of the Administrative Procedures Act. An attorney general opinion on the matter is pending.

PAROLE BOARD
Cont'd

Doyle observed that some of the rules appeared to be a duplication of Social Services rules. [Ch 26]
He commented that Chapter 8, regarding the hearing procedure followed in termination and revocation of parole, does not affect the public.

Bedell said that the question to be answered is whether or not the purpose of the APA as it applies to the Parole Board is to inform those who want to appear before the Board or, for the purpose of setting out hearing procedures.

In re 4.3(247) 2., Bedell said the provision was a result of litigation in federal court.

Doyle noted that 8.1 with respect to parole officers instructions might conflict with Social Services requirements. Bedell responded that the statute provides joint jurisdiction. However, the Board has sole right of parole revocation. Kelly returned.

The Committee asked the Board to submit any forms which they have for perusal to enable the Committee to properly advise them as to whether said forms should be published in the IAC.

Responding to Doyle's question concerning parolees' rights [8.3(9)b], Bedell said this would be evidence to be considered at the administrative hearing but would not be testimony.

Bedell admitted that 8.3(5)--hearing recorded--was vague but that it was extracted from a U.S. Supreme Court decision. He continued that recordings are made at the preliminary hearing and at the time of final revocation hearing, both of which are preserved. A prisoner would be permitted to copy the recording.

Schroeder thought the Board should furnish the tape at no expense to the prisoner. Bedell was opposed to writing that provision into rule form even though they would always provide the recording, when requested.

Priebe suggested making an extra tape each time and if it is not requested, the tape could be reused. Bedell said there are very few requests to listen to tapes.

In re meetings of the Board [2.1], Cornell thought provision should be made for them to be conducted at the institutions. Bedell was opposed to the idea of transporting Board files and the extra expense involved.

Kelly noted that a public hearing was not scheduled.

PAROLE BOARD Kelly moved to request the Board of Parole to hold a public
Cont'd hearing on the proposed rules. Carried viva voce.

Doyle urged the Board to co-ordinate their efforts with those of Social Services Department to avoid duplication in rule-making.

Doderer suggested that the Board also work with Cornell prior to the hearing.

OSHA REVIEW
COMMISSION
Ch 1

The Occupational Safety and Health Review Commission was represented by: Lawrence Ragan, Executive Secretary, Alan Meier, Commission member, and David Fahey, Hearing Officer.. Ragan explained proposed rules of the Commission published in IAC Supplement 1/12/76, being Chapter 1. The main purpose of the amendments was to implement the APA.

Committee made no recommendations other than the request that the Commission neuter the rules.

TRANSPORTA-
TION DEPT.
Procurement
and
Snow Tires

William Armstrong, Management Review, represented the Department of Transportation for review of proposed rules as follows: Procurement of equipment, materials supplies, etc., [01,B],Ch2; published in IAC Supplement 1/12/76 and Mud and snow tires defined, [07,E] 1.3, published in IAC Supplement 1/26/76.

No recommendations were made concerning mud and snow tires but the Committee indicated they needed additional time for review of the procurement rules.

The Committee made no further recommendations on filed rules of the following agencies:
Alcoholism, Commission on, 1/12/76; Commerce Commission, 1/26/76; Engineering Examiners, 1/26/76; Geological Survey, 1/12/76.

Minutes

Doderer moved to dispense with reading of the minutes of the January 12 meeting and that they stand approved. Carried.

APA
Amendments

Members agreed to co-operate in preparation of corrective amendments to the Administrative Procedures Act.

MERIT
EMPLOYMENT

Discussion of correspondence from W. L. Keating, Merit Employment Director, wherein he requested that, before change is initiated, this Committee give their reaction to a merit rule relative to bona fide occupational qualification selective certification justification.

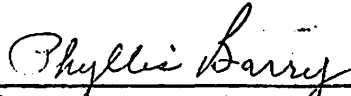
Doderer suggested that the Committee respond to Keating

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MERIT Cont'd indicating they do not want a rule on the subject in question at this time. Further, the Committee concurs with the Review Committee in 1971 which failed to approve such a rule as not being authorized by the merit Act and also being unnecessary since the federal guidelines govern.
So moved by Schroeder. Carried unanimously.

ADJOURNMENT Chairman Priebe adjourned the meeting at 4:35 p.m.
Next regular meeting will be held Tuesday, March 8, 1976,
7:00 a.m.

Respectfully submitted,



(Mrs.) Phyllis Barry

APPROVED

Chairman

DATE 4-13-76