

CHAPTER 1 DEFINITIONS

[Prior to 11/5/86, Merit Employment Department[570]]

581—1.1(19A) Definitions.

“*Absence without leave*” means any absence of an employee from duty without specific authorization.

“*Act*” means Iowa Code chapter 19A creating the department of personnel.

“*Agency*” means a department, independent agency, or statutory office provided for in the Iowa Code section 7E.2.

“*Appointing authority*” means the appointed or elected chief administrative head of a department, commission, board, independent agency, or statutory office or that person’s designee.

“*Base pay*” means a fixed rate of pay for an employee that is exclusive of shift or educational differential, special or extraordinary duty pay, leadworker pay, or any other additional special pay.

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

“*Certification*” means the referral of available names from an eligible list to an agency for the purpose of making a selection in accordance with these rules.

“*Certified disability program*” means that program covering persons with disabilities who have been certified by the vocational rehabilitation division of the department of education or the department for the blind as being able to perform the duties of a job class without participation in examinations used for the purpose of ranking qualified applicants on nonpromotional eligible lists.

“*Class*” means one or more positions so similar in duties, responsibilities, and qualifications that each may be assigned to the same job title and pay plan.

“*Classification plan*” means the printed list of job classifications and the related elements assigned to each. The classification plan is published annually by the department and revised as necessary.

“*Compensatory leave*” means leave accrued as a result of overtime, call back, standby, holidays, or holiday work.

*“*Confidential employee*” means, for purposes of merit system coverage, the personal secretary of: an elected official of the executive branch or a person appointed to fill a vacancy in an elective office, the chair of a full-time board or commission, or the director of a state agency; as well as the nonprofessional staff in the office of the auditor of state, and the nonprofessional staff in the department of justice except those reporting to the administrator of the consumer advocate division.

“*Confidential employee*” means for purposes of collective bargaining coverage, a representative of the employer who, as a major function of the job, determines and effectuates employment relations policy for the appointing authority, exercises independent discretion in establishing such policies, or is so closely related to or aligned with management as to potentially place the employee in a position of conflict of interest between the employer and coworkers. It also means any employee who works for the department, who has access to information subject to use in collective bargaining negotiations, or who works in a close continuing relationship with representatives associated with negotiating collective bargaining agreements on behalf of the state, as well as the personal secretary of: an elected official of the executive branch or a person appointed to fill a vacancy in an elective office, the chair of a full-time board or commission, or the director, deputy director, or division administrator of a state agency.

*Objection filed 12/2/86, see “Objection, 1.1” following. This definition was amended IAB 1/15/97, effective 2/19/97.

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

“Department” means the Iowa department of personnel.

“Director” means the director of the Iowa department of personnel or the director’s designee.

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

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

“Fee-for-services contractor” means a person or entity that provides services on a contracted basis and who is paid a predetermined amount under that contract for rendering those services.

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

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

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

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

“IRC” means Internal Revenue Code.

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

“Lead work” means a responsibility assigned to an employee by management to direct (instruct, answer questions, distribute and balance work load, accept, modify or reject completed work, maintain attendance records, report infractions and provide input on staffing decisions) the work of two or more employees (federal, state, county, municipal and private employment organization, volunteers, inmates or residents).

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

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

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

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

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

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

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

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

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

“Permanent employee” means any executive branch employee (except board of regents employees) who has completed at least six months of continuous nontemporary employment. When used in conjunction with coverage by the merit system provisions referred to in Iowa Code section 19A.2A, unnumbered paragraph 3, it further means those employees who have completed the period of probationary status provided for in Iowa Code subsection 19A.9(8).

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

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

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

“Probationary employee” means any executive branch employee (except board of regents employees) who has completed less than six months of continuous nontemporary employment. When used in conjunction with coverage by the merit system provisions referred to in Iowa Code section 19A.2A, unnumbered paragraph 3, it further means those employees who have not completed the period of probationary status provided for in Iowa Code subsection 19A.9(8).

“Promotion” means the acceptance by a nontemporary employee of an offer by an appointing authority to move to a position in a class with a higher pay grade and may involve movement between positions covered by merit system provisions and positions not covered by merit system provisions.

“Reassignment” means the movement of an employee and the position the employee occupies within the same organizational unit or to another organizational unit at the discretion of the appointing authority. A reassignment may include a change in duties, work location, days of work or hours of work, and may be temporary or permanent. A reassignment may result in a change from the employee’s previous job classification.

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

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

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

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

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

“*Service in the uniformed services*” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty, or examination to determine the fitness of the person to perform such duty.

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

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

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

“*Standby*” means those times when eligible employees are required by the appointing authority to restrict their activities during off-duty hours so as to be immediately available for duty when required by the appointing authority, and is other than simply the requirement to leave word of their whereabouts in case of the need to be contacted.

“*Supervision*” means a responsibility assigned to an employee by management to direct the work of two or more employees and to hire, evaluate, reward, promote, transfer, lay off, recall, respond to grievances and discipline those employees.

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

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

“*Transfer*” means the movement of an employee from a position in a job class to a vacant position for which the employee qualifies in the same or different job class in the same pay grade. A transfer may include a change in duties, work location, days of work or hours of work. A transfer may be voluntary at the request of the employee, or involuntary at the discretion of the appointing authority.

“*Uniformed services*” means the United States armed forces and organized reserves (army, navy, air force or marines), the army national guard and the air national guard when engaged in active duty for training, inactive duty training, or full-time national guard duty, organized reserve duty, the commissioned corps of the public health service, coast guard, and any other category of persons designated by the President in time of war or emergency.

“*Veteran*” means any person honorably separated from active duty with the armed forces of the United States who served in any war, campaign, or expedition during the dates specified in Iowa Code section 35C.1.

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

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

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

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**See IAB Personnel Department.

OBJECTION

At its November meeting the administrative rules review committee voted to object to that portion of 581 IAC 1.1 which relates to the definition of a confidential employee. It is the opinion of the committee this definition is unreasonable in that it overly restricts the availability of confidential secretaries. This definition appears as part of ARC 7103 and is published in IX IAB 10 (11-5-86).

This rule in pertinent part provides a confidential employee is the secretary of an elected official. All other secretaries are not defined as confidential and are protected by the merit provisions of Chapter 19A, Iowa Code. In the committee's opinion this definition is too narrow and should be broadened to include the secretary of the deputy official and the secretaries of the division heads.

The authority for this rule is found in Senate File 2175, section 205, which re-defined the exemptions from the merit system. Part of this re-definition included the elimination of the following language:

“3. Three principal assistants or deputies for each elective official and one stenographer or secretary for each elective official and each principal assistant or deputy thereof, also all supervisory employees and their confidential assistants.”

While this specific exemption was deleted from Chapter 19A, S.F. 2175 added a generic exclusion for “all confidential employees.” The committee believes that the deletion of section 19A.3(3) did not mean that all division level or higher secretaries were to be covered by merit. The committee believes that the re-write of section 19A.3 was intended to reduce the number of automatic exemptions (from twenty-four to seventeen) and to vest in the Personnel Department authority to create exemptions as needed in particular situations.

The committee feels that deputy and division level secretaries are within those “particular situations” where the department should provide an exemption by rule. Agencies headed by elected officials are unique. The management of those agencies is based on agenda developed by a political as well as administrative process. The highest level managers and their immediate staff should be directly accountable to the official who campaigned on that agenda and they should be expected to have some loyalty for that agenda.