

CHAPTER 2  
DEPARTMENT OF ELDER AFFAIRS ESTABLISHED

**321—2.1(231) Department established.**

**2.1(1) Designation.** The Iowa department of elder affairs was created by Iowa Code chapter 231.

**2.1(2) Location.** General correspondence, inquiries, requests for information or assistance, complaints, or petitions shall be addressed to: Executive Director, Iowa Department of Elder Affairs, Clemens Building, 3rd Floor, 200 Tenth Street, Des Moines, Iowa 50309-3609, (515)281-5187.

**2.1(3) Business hours.** Business hours for the department are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays established by the state executive council.

**321—2.2(231) Executive director.**

**2.2(1) Appointment.** The governor, subject to confirmation by the senate, shall appoint an executive director of the department of elder affairs who shall, subject to Iowa Code chapter 19A, employ and direct staff as necessary to carry out the powers and duties created by this chapter.

**2.2(2) Term.** The executive director shall serve at the pleasure of the governor. However, the executive director is subject to reconfirmation by the senate.

**2.2(3) Salary.** The governor shall set the salary for the executive director within the range set by the general assembly.

**321—2.3(231) Divisions of the department.** The department's activities are performed by two divisions directly responsible to the executive director:

**2.3(1) Policy and administration is responsible for the following:**

1. Reviewing and processing the multiyear area plans from the area agencies on aging;
2. Developing and processing the State Plan Funding Application to the federal government;
3. Monitoring, assessing, evaluating and auditing the 13 area agencies on aging for contract performance;
4. Maintaining accountability for all state, federal and local funds for which the department is responsible;
5. Developing and managing aging network programs such as community-based, long-term care, case management education and training services, housing, nutrition, health promotion, information and assistance, respite care, adult day care, outreach to persons in greatest need (minority, rural, low-income or persons with disabilities, or both), and targeting small and minority businesses by AAAs;
6. Developing and managing grants;
7. Managing a variety of department administrative responsibilities (including but not limited to budget preparation, personnel activities, office management, ordering supplies, purchasing equipment, and filing administrative rules);
8. Developing and maintaining computerized information systems which collect, compile and analyze data to define the quality and priorities of the department's programs;
9. Processing information for presentation in reports, pamphlets, brochures, videotapes and the news media.

**2.3(2)** Elder rights is responsible for the following:

1. Developing program initiatives;
2. Managing grants;
3. Monitoring and assessing services related to elder rights' issues;
4. Coordinating (coordination and advocacy efforts involve partnerships with an array of public and private agencies);
5. Developing policy;
6. Providing educational opportunities;
7. Advocating;
8. Improving quality; and
9. Providing customer service related to elder rights' issues.

Elder rights' programs include employment issues for older workers, minority outreach, long-term care ombudsman program, legal assistance program development, public benefits, pension counseling, elder abuse education, volunteer coordination, and money management. The elder rights division encourages adequate retirement planning, employment opportunities for older adults and adequate retirement income. Volunteer opportunities are promoted through the care review committee program, the money management program, and educational opportunities.

### **321—2.4(231) Staffing.**

**2.4(1)** *Employment under state merit system exceptions.* The executive director shall comply with the provisions of the Iowa merit employment system, as applicable, in the employment of individuals. This is not to preclude the executive director from obtaining the specialized services of individuals or organizations on a contract basis. Subject to merit system requirements, preference shall be given to the employment of individuals aged 60 or older.

**2.4(2)** *Standards of conduct.* Each employee of the department is personally responsible for maintaining a high standard of conduct, consistent with rules of the Iowa personnel department[581]—Chapter 18, Iowa Administrative Code, conduct of classified employees, and standards issued by the executive director.

**2.4(3)** *Discrimination.* The department shall extend equal opportunities to all employees and to applicants for employment who meet the qualifications established for a class or a position for which the application is made. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration because of age, sex, race, national origin, or other nonmerit factors is prohibited.

**2.4(4)** *Grievance procedure for perceived discrimination.* Employees who have reason to believe they have been discriminated against under this rule shall file a grievance or complaint as provided within the department's standard procedures manual which shall be published and provided to all employees. Applicants for employment who are not chosen for a position shall be notified by letter that they were not chosen.

*a.* After receipt of the written notification, aggrieved applicants for employment may submit grievances in writing to the Iowa department of elder affairs for evaluation by the executive director.

*b.* Applicants whose grievances are found to be unwarranted shall additionally be notified in writing that further appeal may be made either to the Iowa Personnel Department, Grimes State Office Building, Des Moines, Iowa 50319; Iowa Civil Rights Commission, 211 East Maple Street, Des Moines, Iowa 50319; or the U.S. Equal Employment Opportunities Commission, Regional Office, 310 W. Wisconsin Avenue, Milwaukee, Wisconsin 53203-2292.

**321—2.5(231) Affirmative action plans.** The executive director shall annually review and approve an affirmative action plan for the department. The action plan shall comply with the requirements of Section 900.607 of Title 5 of the Code of Federal Regulations (1981). The plan shall identify the number and types of staff assigned to carry out responsibilities and functions under the Act.

**321—2.6** Rescinded, IAB 5/18/88, effective June 22, 1988.

**321—2.7(231) Department complaint procedure.**

**2.7(1) Aggrieved party identified.** An aggrieved party is any agency, organization, or individual that alleges that their rights have been denied by action of the department or commission, AAA or AAA subcontractor.

**2.7(2) Appeals to the department from the AAA level.**

*a.* Complaints and grievances at the AAA level by participants, senior community service employment program applicants and enrollees, applicants to provide service, service providers, or subcontractors shall be heard first by the AAA using its procedures.

*b.* Local complaint procedures shall be exhausted before contacting the department.

*c.* Senior community service employment program applicants and enrollees shall use the procedure set forth in subrule 10.3(2), paragraph “g.”

**2.7(3) Request for hearing.**

*a.* An aggrieved party or a party appealing an AAA level decision has 30 calendar days from receipt of written notice of action to request a hearing.

*b.* Within 15 calendar days of receipt of a request for a hearing, the department will transmit the request to the department of inspections and appeals pursuant to rule 481—10.4(10A) and will notify the aggrieved party of this transmittal. The department of inspections and appeals shall provide the hearing pursuant to 481—subrules 10.4(1) to 10.4(4).

**2.7(4) Appeals.**

*a.* Parties have 30 calendar days from the mailing date of the decision by the department of inspections and appeals to appeal the decision to the commission. If no appeal is filed, the hearing decision becomes final 30 days from the date of decision.

*b.* Appeals to the commission shall be filed with the executive director of the department of elder affairs at the location identified in subrule 2.1(2).

*c.* On appeal, the commission shall permit each party to file exceptions, present briefs and, with the consent of the commission, present oral arguments to the commission. The commission will establish a deadline for submission of the written exceptions, briefs and requests for continuances and will notify the parties of the deadline.

*d.* The commission will base its decision on the evidence contained in the record made before the department of inspections and appeals and may permit the parties to submit new evidence at its discretion.

*e.* The commission will render a decision on the appeal within 60 days of the date that the appeal was filed unless either party has requested and received a continuance. For purposes of this paragraph, the 60 days shall exclude Saturdays, Sundays and holidays.

*f.* Request for continuance shall be made in writing and the reasons for the request shall be stated. The request shall be filed with the department at the address given in subrule 2.1(2).

*g.* The commission’s decision on appeal is effective immediately unless otherwise specified in the decision.

**2.7(5)** *Appeal by applicants denied designation as a planning and service area.* Any applicant for designation as a planning and service area whose application is denied and who has been provided a hearing by the department of inspections and appeals and has received a written appeals decision by the commission may appeal the denial to the federal commissioner of the Administration on Aging in writing within 30 calendar days of receipt of the commission's decision.

**2.7(6)** *Judicial review.* A party who seeks judicial review shall first exhaust all administrative remedies as follows:

*a.* A party shall appeal the decision of the administrative law judge as provided in subrule 2.7(4) and receive a decision from the commission as provided in subrule 2.7(4), paragraph "e."

*b.* Petition for judicial review of the commission's decision shall be filed within 30 calendar days after the decision is issued.

These rules are intended to implement Iowa Code chapter 231.

[Filed 5/1/87, Notice 2/25/87—published 5/20/87, effective 6/24/87]\*

[Filed emergency 8/20/87—published 9/9/87, effective 9/2/87]

[Filed 4/29/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

[Filed 2/1/91, Notice 11/28/90—published 2/20/91, effective 3/27/91]

[Filed 5/28/97, Notice 4/23/97—published 6/18/97, effective 7/23/97]

\*Effective date of Ch 2 delayed 70 days by the Administrative Rules Review Committee.