

CHAPTER 11
STATE EMPLOYEE APPEALS OF GRIEVANCE DECISIONS
AND DISCIPLINARY ACTIONS

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

621—11.2(19A,20) Filing of appeal.

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

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

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

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

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

11.3(1) The appeal shall contain the following:

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

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

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

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

11.4(2) The answer shall contain the following:

1. The names of the appealing employee and the employing agency/department;
2. A statement of the director's findings concerning the grievance or disciplinary action which forms the basis of the appeal. This statement must be complete and concise, and shall include the reasons supporting the director's response to the appealing employee;
3. A specific reply admitting, denying, or explaining each allegation contained in the appealing employee's appeal;
4. All relevant documents contained in the director's record of the proceeding;
5. Designation of and signature by the director or the director's designee.

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

621—11.5(19A,20) Right to a hearing.

11.5(1) The appealing employee has a right to an evidentiary hearing closed to the public unless a public hearing is requested by the employee. If the employee chooses to have a hearing, the board shall appoint an administrative law judge to adjudicate the matter. The administrative law judge shall set the time, date, and place of the hearing. The hearing shall be conducted in accordance with Chapter 2 of the board's rules, and shall be limited to the facts and issues contained in the employee's appeal and the director's answer.

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

1. The employee shall submit the State Employee Grievance and Disciplinary Action Appeal Form to the board pursuant to subrule 11.3(1);
2. The director shall be notified and shall answer within 15 days as required in subrule 11.4(1);
3. The employee shall have 10 days following receipt of the director's answer to reply. The record shall then be closed and the hearing officer shall issue the decision based upon the record.

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

621—11.7(19A,20) Finality of decision. The administrative law judge's proposed decision shall become final unless a timely petition for review is filed with the board or the board, on its own motion, determines to review the proposed decision.

621—11.8(19A,20) Review by board.

11.8(1) A petition for the board's review of an administrative law judge's proposed decision shall be filed with the board within 20 days of the filing of the proposed decision. The petitioning party shall serve a copy of the petition for review upon all parties or their attorney(s) of record by personal delivery or by ordinary mail.

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

11.8(3) Where a petition for review is filed or the board determines to review a proposed decision on its own motion, the board may also, at its own discretion:

1. Require the filing of briefs,
2. Hear oral arguments, or
3. Take any other action necessary for final disposition of the case.

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

621—11.10(19A,20) Applicability. This chapter shall apply to appeals filed with the board on or after July 1, 1988. Appeals filed prior to that date shall be governed by the board's prior rules governing "Merit Appeals," 621—11.1(20) through 621—11.9(20), filed October 15, 1986, and effective December 10, 1986.

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

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