

CHAPTER 38
EMPLOYMENT AGENCY LICENSING
[Prior to 9/24/86, Employment Agency Licensing Commissioner[350] Chs 1 to 10]
[Prior to 10/21/98, see 347—Ch 38]

875—38.1(94A) Definitions.

“*Agency*” means employment agency.

“*Commissioner*” means the labor commissioner of the division of labor services of the department of workforce development or the commissioner’s designee.

“*Employee*” means a person who seeks employment or who obtains employment through an employment agency.

“*Employment agency*” means a person who brings together those desiring to employ and those desiring employment and who receives a fee, privilege, or other consideration directly or indirectly from an employee for the service. “Employment agency” does not include a person who furnishes or procures theatrical, stage, or platform attractions or amusement enterprises.

875—38.2(94A) Application and license.

38.2(1) *Application.* An application for a license must be made in writing to the commissioner upon Form PEA-1(309-6164). The application form shall be accompanied by two copies of the employee-paid fee schedule Form PEA-2(309-6164); \$75 nonrefundable fee; and all contract forms to be signed by an employee. The application shall also be accompanied by a surety company bond in the sum of \$30,000, to be approved by the commissioner and conditioned to pay any damages that may accrue to any person due to a wrongful act or violation of law on the part of the applicant in the conduct of business.

38.2(2) *Name.* No agency shall use any name, symbol or abbreviation deceptively similar to or reasonably likely to be confused with the name used by an existing agency, any governmental unit, or nonprofit organization.

38.2(3) *Change in officers.* A change in the name of any person required to be reported on the application under Iowa Code Supplement chapter 94A shall be forwarded to the commissioner within ten days of the change.

38.2(4) *Change in address.* The agency shall notify the commissioner of any change of address prior to the change.

38.2(5) *Multiple locations.* A separate license shall be required for each separate office location operated by an agency.

38.2(6) *Nontransferable.* A license is nontransferable.

38.2(7) *Nonissuance of license.* Rescinded IAB 2/9/00, effective 2/9/00.

875—38.3(94A) Non-employment agency activity. The following activities do not require an employment agency license:

1. Appraisal of an employee’s qualifications.
2. Development of career goals and marketing plans.
3. Preparation and printing of résumés.
4. Instruction on interview techniques and networking.
5. Counseling on negotiating pay and fringe benefits.
6. Assistance in obtaining employment when provided by schools, colleges, trade unions, and similar organizations for their students or members if any fees paid are for tuition, training, or dues and would be charged even if the student or member did not attempt to utilize the organization’s employment search services.
7. Furnishing or procuring theatrical, stage, or platform attractions or amusement enterprises.
8. Any activity by a governmental unit.

875—38.4(94A) Complaints. Written complaints by an aggrieved party will be investigated. The commissioner will notify the aggrieved party in writing of the outcome of the investigation. The commissioner may take any appropriate action including denial, revocation, reprimand, and suspension.

875—38.5(17A,94A,252J) Denials, revocations, reprimands and suspensions.

38.5(1) The commissioner may deny, revoke, or suspend a license or issue a reprimand when the commissioner finds that any of the following conditions exist:

- a. The license applicant has violated any of the provisions of Iowa Code Supplement chapter 94A or the rules of this chapter; or
- b. The child support recovery unit of the department of human services has issued a certificate of noncompliance to an employment agency; or
- c. The license application or its required attachments are inaccurate, incomplete or otherwise insufficient.

38.5(2) Contested cases shall be governed by Iowa Code chapter 17A and Iowa Administrative Code 875—Chapter 1, Division V.

875—38.6(94A) Permissible fees charged by agency.

38.6(1) The total amount charged to any employee in any form by an agency shall not exceed 15 percent of the employee's gross earnings from that employer for which the agency procured the job in any pay period for a period of time not to exceed the first 12 months from the date of employment.

38.6(2) Fees due the agency are payable as earned, however, the employee may knowingly agree to pay the fee in advance, with the full understanding that the employee is not required to do so, and the agency guarantees to refund any amounts in excess of 15 percent of actual gross earnings, when ascertained.

38.6(3) No agency or any person connected therewith shall require any employee to execute any negotiable instrument, assignment of earnings, or note except for that amount of fee which is past due to the agency.

38.6(4) Each agency shall keep conspicuously posted at its place of business a copy of the agency's schedule of fees on file with the commissioner. The schedules shall be printed in not less than 8-point type.

38.6(5) Employees who have paid the fee in advance must be notified at their last-known address by the agency at the time they make the final payment on the fee that they may have a refund due if they have paid more than 15 percent of the gross earnings of their first year of employment.

38.6(6) Rescinded IAB 2/9/00, effective 2/9/00.

875—38.7(94) Agency placement procedures. Rescinded IAB 2/9/00, effective 2/9/00.**875—38.8(94A) Contracts and fee schedules.**

38.8(1) *Schedules furnished.* Any schedule of fees to be charged by an agency to employees shall be furnished to all employees at the time of making an application with the agency.

38.8(2) *Required content of all contracts.*

- a. Contracts and fee schedules shall not contain smaller than 8-point type.
- b. Contracts and fee schedules shall contain no ambiguous, false or misleading information.
- c. All contracts and fee schedules must clearly state that the agency is licensed by the labor commissioner and that inquiries may be made via mail to the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319, or by telephone to (515)242-5870.

38.8(3) *Additional required content for employee-paid fee contracts.*

a. Each employee-paid fee contract shall contain a provision limiting to one year from the date of referral the period for which an agency may assess a placement fee for referral of that employee to that employer.

b. Where the agency provides the option for advance payment, the contract and employee-paid fee schedule must clearly state that the employee knowingly agrees to pay the fee in advance with the full understanding that the employee is not required to do so, and that the agency guarantees to refund any amount in excess of 15 percent of the employee's gross earnings from that employer for which the agency procured the job for a period of time not to exceed the first 12 months from the date of employment, when ascertained.

c. All employee-paid fee contracts and fee schedules must state the fee in dollar amounts as well as percentages.

38.8(4) *Additional required content for entertainment enterprises.* Rescinded IAB 2/9/00, effective 2/9/00.

[Editorial change: IAC Supplement 1/23/13; ARC 4639C, IAB 8/28/19, effective 10/2/19]

875—38.9(94) Required records and report. Rescinded IAB 2/9/00, effective 2/9/00.

875—38.10(95) Forms. Rescinded IAB 2/9/00, effective 2/9/00.

These rules are intended to implement Iowa Code Supplement chapter 94A.

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