

REGENTS BOARD[681]

Adopted and Filed

Rule making related to merit system rules

The Regents Board hereby amends Chapter 3, “Personnel Administration,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 262.9(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 8A.413 and 262.9.

Purpose and Summary

The following amendments are adopted after feedback and internal review. As a result of changes in 2017 Iowa Acts, chapter 2, to Iowa Code chapter 20 in February 2017, a review and amendments to the merit rules are necessary to account for these changes as well as to ensure that the rules are up to date to accurately reflect the needs and practices of the institutions.

Items 1, 2, 4, 5, 6, 12, 14, 23, 24, 26, 27, 31, 32, and 34 include nonsubstantive changes to verbiage and definitions to reflect current terminology commonly used in human resources.

Items 3, 25, 30, and 33 include updated references to state or federal laws, Board of Regents or institutional policies or any combination of the above.

Item 7 removes language concerning subsistence and maintenance allowances; includes the approval process for the resident director in appointments based on exceptional qualifications; removes language relating to the reporting of salary adjustments of other merit employees to the merit system director; removes merit increase language and replaces it with guidelines on the updated merit system salary increase procedures; amends pay on demotion language to allow the merit system director to provide an extension for extraordinary circumstances; adds language that allows rewards for exceptional performance not to exceed a certain percentage; sets the minimum rates, increases and decreases for the pay for trainees and apprentices; amends language to reflect that veterans’ pay is set by federal law; and adds a new subrule on discretionary pay increases for permanent employees.

Items 8, 10, 11, and 35 adopt new rules to implement the Iowa Code.

Item 9 includes new language concerning recruitment announcements.

Item 13 reduces the number of eligibility lists from three to two and allows the resident director to determine the duration of the eligibility lists.

Items 15, 16, 19, and 20 rescind requirements related to certification of eligibility lists.

Items 17 and 18 revise language addressing appointments.

Item 21 removes language addressing layoffs and dismissal during an employee’s probationary period.

Item 22 rescinds language governing transfers.

Item 28 clarifies that appeals under rule 681—3.128(8A) are not arbitrable beyond Step 3.

Item 29 extends the number of days for each step of the grievance procedure.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 28, 2019, as **ARC 4630C**.

The Board office received written comments from Morgan Miller, who identified herself as the political and legislative director of AFSCME Council 61. She submitted AFSCME’s concerns about the following proposed amendments: Item 4, subrule 3.3(5); Item 7, subrules 3.39(3) and 3.39(14);

and Item 20, rule 681—3.89(8A). The topics identified in Ms. Miller’s submitted written comments include suspension of merit increases, pay on promotion, pay for returning veterans, and reinstatement. No changes from the Notice have been made based on these comments. The only change made was to change the word “class” to “classification” in Items 5, 6, 7, 11, 13, and 24 for consistency of terminology throughout the chapter.

Adoption of Rule Making

This rule making was adopted by the Board on November 14, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 681—19.18(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 5, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend **681—Chapter 3**, title, as follows:
PERSONNEL ADMINISTRATION REGENTS HUMAN RESOURCES MANAGEMENT—MERIT
SYSTEM RULES

ITEM 2. Amend rule 681—3.1(8A) as follows:

681—3.1(8A) Creation and purpose. The purpose of these rules is to give effect to the provisions of Iowa Code Supplement chapter 8A, subchapter IV, related to merit staff employment to establish an efficient, effective and uniform system of ~~personnel~~ human resources administration for board of regents institutions and staff, to provide equal employment opportunity for all and career opportunities comparable to those in business and industry.

ITEM 3. Amend rule 681—3.2(8A) as follows:

681—3.2(8A) Covered employees. All merit staff employees of the board of regents, ~~except those exempted by Iowa Code section 8A.412(5)~~, will be covered under the rules of this system. In accordance with Iowa Code section 8A.412(5), the merit system includes employees not employed as president, dean, director, teacher, professional and scientific staff or student employee of the state board of regents.

ITEM 4. Amend rule 681—3.3(8A) as follows:

681—3.3(8A) Administration. Under authority of the board of regents and the supervision of its executive director, a merit system director will be appointed who will be responsible for the development, operation and evaluation of the system in compliance with the objectives and intent of certain provisions of Iowa Code Supplement chapter 8A, subchapter IV, related to merit staff employment and regent merit board of regents policies and rules. At each board of regents institution the head thereof will designate an administrator to serve as resident director of the system. The resident director will be responsible through the chief executive at the institution for ~~conducting a program of personnel~~ human resources administration in accordance with these rules. The merit system director shall review the operation of the merit system at each of the institutions and will be responsible for the direction of the merit system and have the authority to ensure the ~~uniform~~ administration of the merit system ~~under~~ consistent with the provision of these rules.

3.3(1) Records and reports. The resident directors will maintain ~~an individual file appropriate documentation~~ on each employee that will include a record of all personnel transactions affecting that individual the individual's employment. The resident directors will also maintain records on operations conducted under these rules and will periodically as requested, ~~and at least annually,~~ report a summary of such operations to the merit system director; and in addition will prepare other reports as may be required by the merit system director to indicate compliance with applicable regents and state requirements and federal standards. The resident director will establish, in cooperation with employing departments, a program that will provide for the regular evaluation, at least annually, of the qualifications and performance of all employees consistent with board and institutional policies.

3.3(2) Nondiscrimination. All programs and transactions administered under these rules will be conducted on the basis of merit and fitness without discrimination or favor because of political ~~or~~ religious opinions or affiliations ~~or national origin, race, sex, creed, color, disability or age except as prescribed or permitted under state and federal law, nor any discrimination protections by law, regulation, or board of regents or institutional policies.~~

3.3(3) Political activity. No merit employees covered under this system will engage in any partisan political activity that is prohibited by law; employees will have the right to freely express their views as private citizens and to cast their vote; coercion of employees for political purposes and the use of employees' positions for political purposes will be prohibited.

Those employees who are by law subject to the provisions of the federal Hatch Act and successor legislation will be informed of such provisions by the resident director at their institution and will be required to adhere thereto.

3.3(4) Revisions and additions. In accordance with the provisions of Iowa Code Supplement chapter 8A, these rules may be revised at any time. In addition, supplementary rules subject to Iowa Code chapter 17A, not inconsistent with these rules may be made applicable to any department, program or service, whenever such additional merit system provisions are required as a condition of eligibility for federal funds.

3.3(5) Suspension of merit increases. During any period of time when merit increases provided under these rules are temporarily suspended by legislative action, the rules providing for such increases shall be suspended for the duration of that legislative mandate. The merit system director shall provide for the administration of such suspension and shall ensure the maintenance of necessary information at each board of regents institution as would be necessary for reinstatement of such increases following the temporary suspension. Reinstatement of such increases shall be authorized by the board upon the recommendation of the merit system director and may include a delay in increases to promote equity among employees. Any such delay, however, cannot exceed one year and must be applied uniformly throughout the system to all employees with like seniority performance and length of employment in the system, or in classification of position, or other specified categorization.

This rule is intended to implement Iowa Code section 262.9.

ITEM 5. Amend rule 681—3.14(8A) as follows:

681—3.14(8A) Definitions.

“Active service” is a period of paid employment performing the duties of the position.

“Advanced starting rate” is a rate ~~on~~ within the pay grade which is greater than the minimum rate of the pay grade for a specific ~~class~~ classification as provided for in the approved pay plan.

“Background check” is the process of collecting and verifying relevant information for an individual’s employment.

“Base pay” means the employee’s rate of pay exclusive of ~~extra~~ any supplemental pay such as lead worker pay, pay for shift differential, pay for special assignment, on-call pay, call back pay, or any other incentive premium pay.

“Board” means board of regents.

“Certification” means the referral of qualified applicants from an eligibility register to a department for the purpose of making a selection in accordance with these rules.

“Class Classification” means one or more positions, which are sufficiently similar in duties and responsibilities, that each position in the group can be given the same job title and require the same minimum qualifications as to education and experience, and that the same schedule of pay can be applied with equity to all positions in the ~~class~~ classification under the same or substantially the same employment conditions.

“Classification appeal” is the act of contesting the classification or reclassification of a position as determined by the merit system director after a review of the duties and responsibilities of the position.

“Classification review” is the process initiated by a permanent employee or department head requesting review of the classification of the employee’s position.

“Classify” means to ~~make the original assignment of~~ assign a position to an appropriate ~~class~~ classification on the basis of the duties and responsibilities assigned and to be performed.

“Days” means working calendar days unless designated otherwise.

“Demotion” means a change of an employee from a position in a given classification to a position in a classification having a lower pay grade. Demotion may be voluntary, be involuntary, or result from a reclassification of a position.

“Department” or *“employing department”* is a unit or division with a regents institution defined locally by each institution.

“Designee” is an individual who has been selected to act on behalf of a designated authority under these rules.

“Eligibility lists” are lists of the names of qualified applicants for a particular ~~class~~ classification.

“Eligibility register” consists of the names of the applicants ~~from the appropriate eligibility list~~ who are certified for a specific vacancy.

“Examination” is the screening of applicants.

“Grievance” is a dispute or complaint concerning the interpretation or application of merit system or institutional rules governing terms of employment and working conditions.

“Lateral transfer” means a change from a position in one ~~class~~ classification to a different position in the same ~~class~~ classification or another ~~class~~ classification in the same pay grade.

“Maximum rate” is the final value of the pay grade to which a classification is assigned. A “red-circled” rate is above the maximum.

“Merit increase” is the increment within the pay grade, as established by the board, by which an employee’s pay will be raised at specified times during employment.

“Minimum rate” is the minimum value of the pay grade to which a classification is assigned. It is less than an “advanced starting rate.”

“Pay grade” or *“grade”* is the numerical designation on the pay schedule to which individual ~~classes~~ classifications are assigned.

“Permanent employee” is an employee who has completed the initial probationary period and thereby acquired permanent status in accordance with the rules of the system.

“Position” means a group of specific duties, tasks and responsibilities assigned to be performed by one employee. A position may be 12-month or less, full-time or part-time, temporary or permanent, occupied or vacant.

“Probationary period” is a six-month period to determine an employee’s fitness for the position. A probationary period is required for an original appointment, reinstatement, reemployment to a class classification not previously held, promotion, voluntary demotion out of series or lateral transfer out of class classification.

“Promotion” means a change in status of a permanent classified employee from a position in a classification to another position in a classification having a higher pay grade.

“Reclassify” means to make a change in the classification of a position by raising it to a higher, reducing it to a lower, or moving it to another class classification of the same level on the basis of significant changes in the kind or difficulty of the tasks, duties, and responsibilities in such position, or because of an amendment to the classification plan, and officially assigning to that position the class classification title for such appropriate class classification.

“Reduction in force” is a permanent layoff or an involuntary reduction in time resulting from a shortage of funds or work, a material change in duties or organization or abolishment of one or more positions.

“Reemployment Recall” is the reappointment of an employee ~~from a reemployment register. An employee may be placed on a reemployment register who terminated~~ as a result of (1) layoff or voluntary demotion in lieu of layoff, or (2) medically related disability leave and exhaustion of vacation and medically related disability leave credits, or (3) failure to pass a subsequent probationary period on a promotion, lateral transfer out of class classification, or demotion out of series.

“Reinstatement” is the reappointment of a permanent employee who has resigned in good standing.

“Resident director” is the person appointed by the head of each regents institution to administer the merit system rules at that institution. The resident director may appoint one or more designees authorized to administer the merit system rules.

~~*“Step”* is the value established through the collective bargaining process or by the merit system director for the purposes of applying the rules on compensation and the setting of advanced starting rates.~~

“Suspension” is an enforced leave of absence with or without pay for purposes of conducting an investigation or as a disciplinary measure.

“Trainee” or *“apprentice”* is an employee participating in a specified training program during a fixed period of time in order to meet the minimum qualifications required for a classification.

ITEM 6. Amend rule 681—3.26(8A) as follows:

681—3.26(8A) Administration of the classification plan. The merit system director will direct the uniform administration of the classification plan. Resident directors may recommend new classifications and reclassifications changes to existing classifications. Employing departments and employees may appeal classification and reclassification in accordance with 681—3.127(8A) ~~of these rules~~.

The merit system director, in consultation with the resident directors and subject to the approval of the board of regents, may establish new elasses classifications and change or abolish existing elasses classifications which affect the merit system pay plan in order to meet the needs of the institutions and to properly reflect changes in work and the organization thereof. When the changes do not affect the pay plan of the merit system, the merit system director may, in consultation with the resident directors, change existing elasses classifications and report such changes annually to the board of regents. When the classification of a position is changed, the incumbent will be entitled to continue service in the position provided the incumbent meets the minimum qualifications or provided the duties have not changed appreciably. If the incumbent is not eligible to continue, the incumbent may be transferred, promoted, demoted or laid off in accordance with the rules. Changes in classification will not be used to avoid other provisions of these rules relating to layoffs, promotions, demotions and dismissal.

A review of individual classifications, class classification series, or group of elasses classifications may be initiated by the merit system director on a systemwide basis. The administrative review shall

preempt the classification appeal procedure provided in 681—3.127(8A) ~~of these rules~~. Changes in the classification of positions resulting from a systemwide review shall be effective at the beginning of the next fiscal year unless the merit system director establishes an earlier date for implementation.

This rule is intended to implement Iowa Code ~~Supplement~~ sections 8A.412(5) and 8A.413.

ITEM 7. Amend rule 681—3.39(8A) as follows:

681—3.39(8A) Administration of the pay plan. Within the provisions of these rules, the pay plan will be uniformly administered by the resident directors under the direction of the merit system director for all ~~classes~~ classifications in the system. Except as otherwise provided in these rules and in the pay plan, all employees will be paid between the minimum and maximum of the pay grade to which the employee's class classification is assigned and such pay will constitute the total cash remuneration the employee receives for the employee's work in that position. ~~Perquisites such as subsistence and maintenance allowances will be considered a part of pay and the value of such will be deducted from an employee's rate of pay.~~ Any employee who is approved for participation in a phased retirement program as provided for by state law and regent policy shall have the salary provided under these rules adjusted as specified by such law and regent policy.

3.39(1) Entrance salaries. The entrance salary for an employee in any position under this system will be the minimum salary of the pay grade to which that class classification is assigned or in accordance with the approved pay plan, except as provided for the following:

a. Appointment based on a scarcity of qualified applicants. At the request of an institution and on the basis of economic or employment conditions which make it difficult or impossible to recruit at the minimum rate of the pay grade to which a class classification of position is assigned, a resident director, subject to approval by the merit system director, may authorize for a designated period of time recruitment for that class classification at a rate higher than the minimum. Where such a higher entrance rate is authorized all employees in the same class classification and in the same geographical area, who are earning less than the higher entrance rate, will be increased to that higher rate.

b. Appointment based on exceptional qualifications. Employees whose qualifications substantially exceed the minimum required for the class classification or who possess outstanding experience relative to the demands of the position may, at the request of an employing department and upon approval by the resident director, be appointed at a rate higher than the minimum, provided that the pay of all other employees in the same classification as defined in 3.104(4) "e" with similar qualifications working under the same conditions at the same institution are raised to that higher rate. ~~Such~~ These appointments along with any salary adjustments required of other employees other than the appointee must be approved by the resident director and reported to the merit system director. ~~Such appointments which necessitate the adjustment of the salaries of employees other than the appointee will, in addition, be reported to the merit system director.~~

Increases authorized and granted to other employees as the result of appointments based on the scarcity of qualified applicants, 3.39(1) "a," or appointments based on exceptional qualifications, 3.39(1) "b," will establish new merit review dates for affected employees.

c. Appointments based on prior service at the institution. Employees who were employed by an appointing institution in a nonmerit system position and who performed duties of the same character and responsibility as the merit class classification to which they are being appointed may be paid at a rate higher than the minimum reflecting prior service in a comparable position. Such appointments must be approved by the resident director and reported to the merit system director.

3.39(2) Merit increases. ~~Permanent and probationary employees will be eligible for a merit increase following one year of satisfactory performance in their assigned classification with the exception that permanent and probationary employees paid at the minimum of a pay grade will be eligible for a merit increase upon completion of 6 months of satisfactory service in their assigned classifications and every 12 months thereafter~~ Employees with satisfactory performance shall be eligible to receive a merit increase upon completion of their minimum pay increase eligibility period. The minimum pay increase eligibility period for employees shall be 12 months from their last performance review, except that it shall be 6 months for an employee who is appointed, promoted, or reclassified and paid at the minimum rate

for the employee's assigned pay grade. Failure to conduct a performance review shall result in the employee being deemed to have performed satisfactorily during this period. No merit increase will be granted above the maximum of the pay grade. ~~The period of satisfactory performance will be measured from the last merit review date if such a date has been established.~~ Merit increases in pay will not be made retroactively, but may be denied or deferred by the employing department on the basis of work performance. Employees whose merit increases are denied or deferred will, ~~prior to the scheduled effective date of increase,~~ be informed of such action by a written statement from their employing department which specifies the ~~reason~~ reason(s) for the ~~denial or deferral action.~~ Denials or deferrals of a merit increase for six months or less for reason of unsatisfactory work performance will not result in the establishment of a revised merit review date.

Deferrals resulting from leaves of absence without pay or layoff exceeding 30 calendar days will cause a change of the merit review date equal to the time away from work.

3.39(3) Pay on promotion. An employee who is promoted will be moved to the minimum rate of the new grade, or to a an equal or higher rate ~~on in~~ the new grade ~~which provides an adjustment, to the employee's present base pay, that is the salary equivalent of no less than one step higher but, at the discretion of the institution, that is no greater than 5 percent higher than the employee's current base pay~~ without approval of the merit system director. In no event will the adjustment result in pay above the maximum of the new grade.

If the promotion involves movement to a new grade that is three or more grades higher than the employee's present grade, the resident director may approve, on written request from the employing department, an increase, to the employee's present base pay, ~~that is equivalent to the value of no less than two steps higher but, at the discretion of the institution, of~~ no greater than 10 percent without the approval of the merit system director.

For the purpose of calculating the promotional increase, any extra pay such as shift differential pay, pay for special assignment, pay for lead worker status, on-call pay, pay for overtime, or pay for call back shall be excluded as part of the employee's present base pay. ~~The merit review date~~ minimum pay increase eligibility period will be computed from the effective date of promotion and in accordance with 3.39(2). Pay on promotion in accordance with the provisions of 3.39(1) "b" may be authorized by a resident director and will be reported to the merit system director.

3.39(4) Pay on demotion. Upon recommendation by the department head, and with the prior approval of the resident director, the pay of an employee who is demoted will be set at any rate within the new pay grade that does not exceed the rate at which the employee was paid in the position from which the employee was demoted. ~~Merit review date~~ except as provided in 3.39(1) "b." Minimum increase eligibility period will not change.

If the salary of an employee who is demoted as the result of the reclassification of the employee's position exceeds the maximum salary of the pay range to which the new classification is assigned, at the discretion of the employing department and with the approval of the resident director, the salary may be "red-circled" for a period not to exceed one year. ~~An extension not to exceed one additional year may be approved by the merit system director~~ The resident director may request an extension be approved by the merit system director due to extraordinary circumstances for a designated period of time.

If an employee accepts voluntary demotion in lieu of layoff, the salary shall be retained providing funding is available. In no event will the salary exceed the maximum of the new pay grade.

3.39(5) No change.

3.39(6) Pay for special assignment. Provided an employee is granted special assignment in accordance with 3.102(2), ~~of these rules~~ the employee will be paid for the duration of such assignment consistent with:

- a. 3.39(3) Pay on promotion if assigned to a class classification having a higher pay grade;
- b. 3.39(7) Pay on transfer if assigned to a class classification having the same pay grade;
- c. The present base pay if assigned to a class classification having a lower pay grade.

3.39(7) Pay on lateral transfer.

a. Employees who are transferred from one position to another position in the same class classification shall receive no adjustment in base pay except as provided in 3.39(1) "b";

b. Employees who are transferred from one position to another position in a different class classification but in the same pay grade shall receive no adjustment in base pay except as provided in 3.39(1) "b" or as set forth in 3.39(7) "c" and "d" below;

c. Employees who are transferred from one class classification with a lower or no advanced starting rate to a class classification with a higher advanced starting rate shall receive:

(1) An adjustment to the higher advanced starting rate if the base pay prior to lateral transfer is less than the higher advanced starting rate. When the base pay adjustment is the salary equivalent of the value of a step or greater, an adjustment in merit review date will result and be computed from the effective date of lateral transfer and in accordance with 3.39(2); or

(2) There will be no adjustment in base pay if the employee's base pay prior to lateral transfer is not less than the higher advanced starting rate.

d. Employees who are transferred from one position in a class classification with a higher advanced starting rate to a position in a class classification in the same pay grade but with a lower or no advanced starting rate shall be paid in accordance with subrule 3.39(4), pay on demotion.

e. In no case may an employee be paid below the minimum or above the maximum for a classification.

3.39(8) and 3.39(9) No change.

3.39(10) Pay for exceptional performance. An employee may be given pay for exceptional performance, not to exceed 5 percent of an employee's current annual salary, at the written request of the employee's department head with appropriate administrative approval and the prior approval of the resident director. The request will describe the nature of the exceptional job performance for which additional pay is requested, indicate the amount proposed, and specify the source of funds. The award may be based on sustained superior performance or an exceptional achievement or contribution during the period since the employee's last performance review. To qualify for an exceptional performance award, an employee must have a cumulative performance evaluation exceeding standards and have no individual rating below satisfactory. Payment will be made as a lump sum award and will not change the employee's established salary rate. ~~No employee will be eligible for more than one award a year~~ An employee will be eligible to receive multiple rewards per fiscal year but not to cumulatively exceed 5 percent of the employee's current annual salary.

3.39(11) No change.

3.39(12) Pay for lead worker status. On request of an employing department and with approval of the resident director, an employee who is assigned and performs limited supervisory duties (such as distributing work assignments, maintaining a balanced workload within a group, and keeping attendance and work records) in addition to regular duties may be designated as lead worker in the classification assigned, and paid during the period of such designation the employee's base salary plus ~~the equivalent of no less than one step but~~, at the discretion of the institution, a percentage of the employee's base pay no greater than 5 percent without the approval of the merit system director.

3.39(13) Pay for trainees and apprentices. The schedule of wages for trainees and apprentices will ~~consist of a step in the pay matrix for every year of training required~~ be set at the minimum of the entrance rate of the journey classification and decreased by 4.5 percent for every year of the program. Each employee whose performance is satisfactory as determined by the employing department will progress ~~one-half step~~ by half of the annual increase every six months from the first step of the schedule to the entrance rate established for the journey class classification at the completion of time established for training or apprenticeship.

3.39(14) Pay for returning veterans. Veterans who return from military leave will have their pay set ~~at the rate they would have attained had they continued in service at the regent institution from which they took military leave~~ by applicable federal law.

3.39(15) Discretionary pay increases for permanent employees. Reserved Permanent employees paid within the designated pay grade may be eligible for a discretionary increase to their present base pay as a result of a market analysis, equity analysis, employment offer or other employment situation. In no circumstance will the adjustment result in pay above the maximum of the pay grade. A resident

director shall present the rationale for a discretionary pay increase to the merit system director for approval by the merit system director.

3.39(16) to 3.39(18) No change.

3.39(19) Recruitment or retention payments. A payment to a job applicant or an employee may be made for recruitment or retention reasons. The resident director shall first submit a written explanation to the merit system director prior to any payment being made.

As a condition of receiving recruitment or retention pay, the recipient must sign an agreement to continue employment with the employing department to be commensurate with the amount of the payment. If the recipient is terminated for cause or voluntarily leaves state employment, the recipient will be required to repay the employing department for the proportionate amount of the payment for the time remaining and it will be recouped from the final paycheck. When the recipient changes employment to another state agency, a repayment schedule must be approved by the employing department and the state agency. Recoupment will be coordinated between the state agency and the institution to ensure the proper reporting of taxes.

This rule is intended to implement Iowa Code ~~Supplement~~ section 8A.413.

ITEM 8. Adopt the following new rule 681—3.40(8A):

681—3.40(8A) Group insurance benefits. Pursuant to the authority of Iowa Code section 262.9(13), each board of regents institution or special school is authorized by the board of regents to administer group insurance benefit programs for all regent employees subject to any requirements set forth by the board or in the board policy manual.

ITEM 9. Amend rule 681—3.50(8A) as follows:

681—3.50(8A) Applications. Applications for employment will contain no question so formed as to elicit any information prohibited by state or federal statutes, and the truth of statements made on the application will be certified by the signature of the applicant. Public announcement of vacancies will be made for ten calendar days in classifications for which applications are not accepted on a continuous basis. Persons with disabilities may request specific examination accommodations. Reasonable accommodations will be granted in accordance with policies established by the institution. Applications will be kept on file at the institution for a period of time to be designated by the resident director. Each institution may post recruitment announcements for application by employees of that institution only.

ITEM 10. Adopt the following new rule 681—3.53(8A):

681—3.53(8A) Background checks. Background checks, including but not limited to criminal records, sex offender registry records, driving records, financial or credit records, child or dependent adult abuse record checks, reference and work history checks, may be conducted pursuant to each institution's background check policies.

ITEM 11. Adopt the following new rule 681—3.54(8A):

681—3.54(8A) Qualifications. Applicants must meet the qualifications for the classification as indicated in the board of regents classification description, as well as any special qualifications associated with a particular position. For each position posted for applications, the list of applicants will be evaluated to determine whether or not an applicant meets such qualifications and requirements. Those applicants who meet the required qualifications as determined by the resident director or the resident director's designee shall be eligible for further consideration for hire, transfer or promotion in the position.

An employing department may request in writing that the resident director certify applicants who have special qualifications in addition to the minimum qualifications prescribed in the classification specifications. If, in the judgment of the resident director, such a request is validly related to job performance, the resident director may certify only the names of applicants who have such special qualifications.

This rule is intended to implement Iowa Code section 8A.413.

ITEM 12. Amend rule 681—3.55(8A) as follows:

681—3.55(8A) Rejection or disqualification of applicants. The resident director may reject any applicant or, after examination, may refuse to certify any ~~candidate~~ applicant if it is found that the person:

1. Does not meet the minimum required qualifications for the ~~class~~ classification;
2. ~~Cannot~~ Is unable to perform the essential functions of the position with or without a reasonable accommodation;
3. ~~Habitually uses narcotics or uses intoxicating beverages to excess~~ Has violated federal or state law or regulations that affect the ability to perform the job;
4. ~~Has made a false statement of material fact in the application~~ unauthorized access to examination information;
5. ~~Has information concerning the examination to which the person is not entitled~~ failed to appear for examination or participate in any aspect of the selection process;
6. ~~Has been convicted of a crime which makes the person unsuitable for employment in a particular class or position~~ failed to meet the conditions of employment such as physical requirements, background checks, or other conditions as set forth in the job announcement;
7. ~~Has made false statements or attempts to practice fraud or deception during the selection process~~;
8. ~~Entered into a written agreement between the applicant and the state or regents institutions that the applicant will not seek or accept work from the state, any regents institution, or both~~;
7. 9. ~~Has been dismissed from private or public service for a cause that would be detrimental to the regents institution employing the applicant.~~

A disqualified applicant will promptly be notified ~~in writing~~ by electronic or ordinary mail of such action at the last-known address. A disqualified applicant may request, ~~in writing~~, review of the reason for disqualification within ten days of notification. ~~Such request will be in writing and upon~~ Upon receipt, the resident director will give full consideration to the request and notify the applicant by electronic or ordinary mail of the resident director's decision in writing within ten days of receipt.

ITEM 13. Amend rule 681—3.67(8A) as follows:

681—3.67(8A) Eligibility lists. ~~Three~~ Two kinds of eligibility lists will be established: ~~reemployment, recall and employment, and promotional.~~

Reemployment Recall lists will consist of the names of permanent employees who have been laid off or demoted in lieu of layoff or who are able and qualified to return to work following a medically related disability leave, in accordance with 3.104(4) "j" and 681—3.143(8A) or in accordance with ~~3.90(4)~~ 3.90(3). These lists will be maintained in order by retention points calculated in accordance with the rules for reduction in force, beginning with the person with the highest number of points. ~~Reemployment Recall~~ rights apply only to ~~classes~~ classifications for which the employee is eligible in accordance with these rules.

Employment lists will include the names of all applicants for the position posted who meet the qualifications for a classification. ~~Employment lists will be maintained for specific classifications designated for continuous acceptance of applications in accordance with rule 681—3.50(8A).~~ ~~Promotional lists will consist of the names of all permanent employees who are qualified and have requested consideration for promotion unless an employing department requests that the promotional list be limited to permanent employees of that department.~~

3.67(1) Removal of names from eligibility lists. In addition to the causes for rejection or disqualification set forth under 681—3.55(8A), the resident director may permanently or temporarily remove names from eligibility lists for the following reasons:

- a. Upon receipt of notification from applicants that they no longer desire consideration for a position in the ~~class~~ classification.
- b. ~~Appointment through certification from such eligibility list to fill a permanent position.~~

c. Failure to respond within five working days to the written inquiry of the resident director relative to availability for appointment.

d. Declination of appointment ~~without good cause or under conditions~~ which the applicants previously indicated they would accept.

e. Failure to appear for a scheduled employment interview or to report for duty within a reasonable time specified by the employing department.

f. Failure to maintain ~~a record of their current address~~ contact with the resident director as evidenced by the return of a properly addressed unclaimed letter or other evidence.

g. Willful violation of any of the provisions of these rules.

h. Rescinded IAB 6/12/02, effective 7/17/02.

3.67(2) Duration of eligibility lists. ~~Eligibility lists may be continuous or closed after a vacancy is filled. Names may be added to or deleted from eligibility lists in accordance with these rules. The names of applicants who have not been appointed or otherwise removed from lists will be removed at the termination of the period of time designated by the resident director.~~

3.67(3) Precedence of eligibility lists. ~~Reemployment~~ Recall lists will supersede employment ~~and promotional~~ lists.

ITEM 14. Amend rule 681—3.68(8A) as follows:

681—3.68(8A) Personnel Job requisitions. Requests to fill vacancies in permanent positions will be initiated by the requesting department and forwarded to the resident director. The request will include the class classification of the position to be filled, the number of vacancies and the date of need.

ITEM 15. Rescind and reserve rule **681—3.69(8A)**.

ITEM 16. Amend rule 681—3.70(8A) as follows:

681—3.70(8A) Selection of employees. Final selection will be made by the employing department. Nothing in these rules will require the hiring of any applicant. ~~When a properly certified applicant is selected by a department, the department will so notify the resident director.~~

ITEM 17. Amend rule 681—3.84(8A) as follows:

681—3.84(8A) Trainee, apprentice, or career development or apprentice appointment. ~~When a position within a class cannot be filled because of the lack of qualified eligibles, or applicants meeting the minimum qualifications for the class, or the institution specifically designates a position for trainee, apprentice, or career development purposes, the institution may appoint a person who meets the minimum qualifications established in programs approved by the merit system director for this type of appointment. With the approval of the resident director, an institution may advertise a position for a classification designated for trainees or apprentices. When so designated, applicants do not need to meet the minimum qualifications for the classification for permanent appointment. The purpose of the program is to develop the trainee or apprentice to obtain the necessary knowledge, skills and abilities to perform the work and to meet the minimum qualifications for the classification. At the conclusion of the designated training period or apprenticeship program, the employee must be able to satisfactorily perform the duties and meet the minimum qualifications in order to move into the regular classification.~~

ITEM 18. Amend rule 681—3.85(8A) as follows:

681—3.85(8A) Project Term appointment. When it is known that a particular job, project, grant or contract will require the services of an employee for a limited duration or where funding must be renewed periodically, a project term appointment may be made. ~~Such an~~ The initial appointment will not be made for more than one year. ~~While an extension~~ Renewals beyond one year may be approved by the ~~merit system~~ resident director on the basis of a ~~limited need that could not otherwise be efficiently and effectively filled, successive project appointments will not be allowed~~ funding availability or institutional limits on term appointments.

Such appointments will not confer to the individual any right of position, transfer, demotion, or promotion, or recall, but incumbents shall be eligible for vacation and sick leave, except that a project term appointment made for less than 780 hours will be considered a temporary appointment under rule 681—3.82(8A) without conferring rights or eligibility for vacation or sick leave.

This rule is intended to implement Iowa Code Supplement section 8A.413(9).

ITEM 19. Amend rule 681—3.87(8A) as follows:

681—3.87(8A) Permanent appointments. An applicant who is ~~certified from an eligibility register~~ and appointed with the approval of the resident director to a permanent position, and who successfully completes a probationary period in accordance with these rules, will have permanent status.

ITEM 20. Rescind and reserve rule **681—3.89(8A)**.

ITEM 21. Amend rule 681—3.90(8A) as follows:

681—3.90(8A) Probationary period.

3.90(1) and 3.90(2) No change.

3.90(3) *Layoffs during probation.* Employees who are laid off during their probationary period will, upon written request to the resident director, be placed on the appropriate eligibility list.

3.90(4) 3.90(3) *Dismissal during promotional probation.* ~~Employees on original appointment or who have been reinstated or reemployed and dismissed during their probationary period may be returned to the eligibility list from which they were appointed if, in the judgment of the resident director, they may be able to perform satisfactorily in another position.~~ Employees who are promoted from one class classification to another or who transfer out of class classification or who demote out of class classification series and are dismissed during their probationary period may be placed on the reemployment recall list for a previously held classification if, in the judgment of the resident director, they may be able to perform satisfactorily in another position.

ITEM 22. Rescind subrule **3.102(3)**.

ITEM 23. Amend rule 681—3.103(8A) as follows:

681—3.103(8A) Demotion (voluntary). If, for any reason, an employee wishes to be demoted to a position in a lower class classification, the resident director may, upon written request from the employee and with the approval of involved departments, effect such a demotion provided the employee is certified by the resident director as meeting the qualifications required for the lower class classification. Voluntary demotion will not be subject to appeal.

ITEM 24. Amend rule 681—3.104(8A) as follows:

681—3.104(8A) Terminations.

3.104(1) *Resignations.*

a. To resign in good standing employees must notify the employing department of their intention to resign in writing at least ~~ten~~ 14 days prior to the effective date of resignation, except in cases where the employing department agrees to a shorter period of notice. ~~An employee who fails to give proper notice may, at the request of the employing department, be barred from future certification to that department or from reinstatement as provided for in these rules.~~ Employees who resign will have no rights of appeal under these rules.

b. Abandonment of position. Employees who are absent from duty for three consecutive workdays without proper notification and authorization thereof shall be deemed to have resigned their positions.

This rule is intended to implement Iowa Code section 8A.413(15).

3.104(2) and 3.104(3) No change.

3.104(4) *Reduction in force.*

a. Nothing herein shall be construed as a guarantee of hours of work per day or per work period. An institution may lay off an employee when it deems necessary because of shortage of funds or work,

a material change in duties ~~or organization~~, reorganization or abolishment of one or more positions, or other legitimate reason consistent with public employer rights (Iowa Code section 20.7).

b. Reduction in force will be accomplished in a systematic manner in accordance with these rules; however, the layoff provisions established in this subrule shall not apply to:

(1) Temporary layoffs of less than ~~20~~ 25 workdays or ~~160~~ 200 hours of work per calendar year;

(2) Interruptions in the employment of school term employees during breaks in the academic year, during the summer, or during other seasonal interruptions that are a condition of employment, with the prior approval of the resident director;

(3) The promotion or reclassification of an employee to a ~~class~~ classification in the same or a higher pay grade;

(4) The reclassification of an employee's position to a ~~class~~ classification in a lower pay grade that results from the correction of a classification error, the implementation of a ~~class~~ classification or series revision, changes in the duties of the position, or a reorganization that does not result in fewer total positions in the unit that is reorganized;

(5) A change in the classification of an employee's position or the appointment of an employee to a ~~vacant position in a class~~ classification in a lower pay grade resulting from a ~~disciplinary or voluntary~~ demotion; and

(6) The transfer or reassignment of an employee to another position in the same ~~class~~ classification or to a ~~class~~ classification in the same pay grade.

c. The individual whose position is eliminated or reduced in hours ~~will~~ may be reassigned to a vacant position in the same ~~classification and institution~~ classification provided the individual ~~can perform the essential functions of the position and~~ possesses any required special qualifications for the position. If there is no vacant position to which the individual can be reassigned, the individual(s) may ~~request and accept~~ layoff with ~~reemployment rights~~ recall priority as provided in 3.104(4) "o." If an individual(s) directly affected does not ~~request~~ accept layoff with ~~reemployment rights~~, the reduction in force procedures in this subrule shall be implemented.

d. Reduction in force will be made by ~~class~~ classification.

e. Reduction in force may be made by organizational unit within an institution or institutionwide, as designated by the institution, provided such designation is reported to the merit system director before the effective date of the reduction.

f. The order of reduction in force will be by type of appointment as follows: temporary, trainee, initial probationary, permanent.

g. Each permanent employee affected by a reduction in force will be notified in writing of the layoff and the reasons for it at least ~~20 working~~ 28 days prior to the effective date of the layoff unless budgetary limitations require a lesser period of notice.

h. There will be competition among all employees in the ~~class~~ classification affected by the layoff based on a retention points system ~~that will consist of points for length of service and performance evaluation~~ of all employees in the ~~class~~ classification within the organizational unit or units affected. Retention points will be calculated as follows:

(1) Length of service credit will be allowed at the rate of one point for each month of service in a permanent position, whether full or part time. Any period of 15 calendar days of service (including any legally protected leave, paid or unpaid) in a month will be considered a full month. For the purpose of computing length of service credits, the institution will include all periods of regular merit employment during periods of continuous regular appointments with the institution between the date of the original appointment and the date of the layoff or as provided otherwise by law. Periods of leave without pay exceeding 30 days will not be counted unless protected by federal or state law.

(2) Performance evaluation ~~credit~~ deduction will be allowed at the rate of one point for each month of satisfactory ~~unsatisfactory~~ service. No length of service credit will be allowed for service rated less than satisfactory. If there is no record of performance evaluation for a specific time period, it shall be presumed that the employee's performance is satisfactory.

(3) Reduction in force retention points will be the total of length of service ~~and, less any deduction for unsatisfactory performance evaluation~~.

i. Employees will be placed on the layoff list beginning with the employee with the greatest number of retention points at top. Layoffs will be made from the list in reverse order unless the employee with the least retention points has special skills and abilities required to perform in the position currently occupied. Employees with greater retention points who must vacate their positions must possess the special skills and abilities required for that position and meet any job-related selective certification required for that position. Copies of the computation of retention points will be made available to affected employees. One copy will be retained by the resident director and one copy will be forwarded to the merit system director at least ten days prior to the effective date of the layoff.

j. When two or more employees have the same total of retention points, the order of termination will be determined by giving preference for retention to the employee with the longest time in the class classification.

k. The reduction in force plan approved by the merit system director will be made available by the resident director so that all employees directly impacted will have access to it.

l. An affected employee may appeal a reduction in force by filing, within ~~five~~ seven days after notification as provided in 3.104(4) "g," a written grievance with the resident director (at Step 3 of the grievance procedure provided in 681—3.129(8A) or at a comparable step of a procedure approved under 3.129(1)). If not satisfied with the decision rendered at that step, the employee may pursue an appeal in accordance with the grievance procedure.

m. A supervisory employee, defined as a public employee who is not a member of a collective bargaining unit and who has authority, in the interest of a public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees, to direct such public employees, or to adjust the grievances of such public employees, or to effectively recommend such action, may not replace or bump a junior employee not being laid off. For purposes of this subrule, "junior employee" means an employee with ~~less seniority or~~ fewer retention points than a supervisory employee.

n. A permanent employee in a nonsupervisory class classification in which layoffs are to be effected may, in lieu of layoff, elect voluntary demotion to a position in the next lower nonsupervisory class classification in the same series utilized at the institution or, in the absence of a lower nonsupervisory class classification in the same series, to a nonsupervisory class classification which the employee has formerly occupied while in the continuous employment of the institution. The employee must possess any special qualifications required and have the ability to perform the essential functions of the position. Such demotion or the occupying of a formerly held nonsupervisory class classification will not be permitted if the result thereof would be to cause the layoff of a permanent employee with a greater total of retention points. To exercise the right of voluntary demotion or to occupy a formerly held nonsupervisory classification in lieu of layoff, the employee must notify the resident director in writing of such election not later than five calendar days after receiving notice of layoff. Any permanent employee displaced under these provisions will have the right of election as provided herein.

o. Employees who are laid off or who accept voluntary demotion in a series or assignment to a previously held class classification in lieu of layoff will may, at their request, ~~have their names placed on the reemployment eligibility list~~ initiate recall priority for the class classification from which they were laid off, a lower class(es) classification(s) in the same series from which they were laid off, and a class(es) classification(s) formerly occupied in accordance with 681—3.67(8A) ~~to~~, 681—3.68(8A), and 681—3.70(8A) for a period of up to ~~two years~~ one year from the date of layoff. If reemployment recall occurs within ~~two years~~ one year of separation due to reduction in force, prior service credit shall be restored. Acceptance of reemployment recall in a lower class classification in the same series from which the employee was laid off or in a previously held class classification will not affect the employee's standing on the reemployment list recall priority for the class classification from which the employee was laid off. ~~After two years on the reemployment eligibility list, the employee's name shall be removed.~~

p. Recall priority will utilize the retention points calculated in accordance with the rules for reduction in force, beginning with the person with the highest number of points as applied in the following order:

(1) If the vacancy occurs in a layoff unit in which the employees eligible for recall in a classification were last employed, the resident director will refer the employee with the greatest number of retention points who was laid off, was demoted or took a medically related disability leave from that layoff unit; or

(2) If the vacancy occurs in the layoff unit other than the one in which employees eligible for recall priority in a classification were last employed, the resident director will refer the employee with the greatest number of retention points on the list from a different layoff unit. Employees referred with recall priority must meet the qualifications for the position, including any special qualification requirements. Employing departments must evaluate any eligible employees with recall priority before considering other applicants.

g. Recall priority will end upon:

(1) Appointment to fill a permanent position in the classification.

(2) Receipt of notification from the individual that the individual no longer desires consideration for a position in the classification.

(3) Failure to respond within five days to the written inquiry of the resident director or the resident director's designee relative to availability for appointment.

(4) Failure to appear for a scheduled interview or to report for duty within a reasonable time specified by the employing department.

(5) Rejection of a specific offer to return to a classification.

(6) Failure to maintain contact information with the resident director.

(7) Expiration of priority after one year following reduction in force or notice of intent to return from leave.

3.104(5) Abandonment of position Termination for failure to meet job requirements. Employees who are absent from duty for three consecutive work days without proper notification and authorization thereof shall be deemed to have resigned their positions. When an employee occupies a position where the current appointment is based upon satisfaction of a criminal background check; requirements for licensure; job qualifications, including special qualifications; or any combination of the above, and no longer qualifies for the position, the employee may be terminated for failure to meet or maintain essential job requirements.

This rule is intended to implement Iowa Code Supplement section 8A.413(14).

ITEM 25. Amend rule 681—3.115(8A) as follows:

681—3.115(8A) Causes for disciplinary action. All employees may be subject to disciplinary action for any of the reasons specified in Iowa Code Supplement section 8A.413(16), or as established by board of regents or institutional policies.

ITEM 26. Amend rule 681—3.116(8A) as follows:

681—3.116(8A) Disciplinary actions. Disciplinary action will be reasonable, timely and related in severity to the seriousness of the offense; however, this will not preclude reasonable penalties of varying severity for an accumulation of offenses.

3.116(1) Suspension. ~~A department head~~ The employing department may, for cause in accordance with 681—3.115(8A), suspend any employee for such length of time as the department head considers appropriate, ~~but not to exceed 10 30 days at any one time or 20 days in any 12-month period.~~ The employing department head will inform the affected employee of the suspension and the reasons therefor in writing within 24 hours of the time the action is taken. A copy of the suspension will be sent by the department to the resident director and will be maintained in the employee's personnel file. Employees may appeal the action directly to Step 2 of the grievance procedure specified in 681—3.129(8A) or to a comparable step in a grievance procedure approved in accordance with 3.129(1). If not satisfied with the decision rendered at that step, employees may pursue their appeal in accordance with the grievance procedure.

3.116(2) *Reduction of pay within grade.* A An employing department head may, for cause in accordance with 681—3.115(8A), reduce the pay of an employee to a lower rate of pay within the pay grade assigned to the class classification. The department head will notify the affected employee of the reduction, the reasons therefor and the duration thereof, in writing within 24 hours of the time the action is taken. A copy of the reduction notice will be sent by the department to the resident director and will be maintained in the employee's personnel file. Employees may appeal the action directly to Step 2 of the grievance procedure specified in 681—3.129(8A) or a comparable step in a grievance procedure approved in accordance with 3.129(1). If not satisfied with the decision rendered at that step, employees may pursue their appeal in accordance with the grievance procedure.

3.116(3) *Demotion.* A An employing department head may, for cause in accordance with 681—3.115(8A), demote an employee to a vacant position in a lower class classification provided the employee meets the qualifications for that lower class classification. The department head will notify the affected employee of the demotion and the reasons therefor in writing within 24 hours of the time the action is taken. A copy of the notice of demotion will be sent by the department to the resident director and will be maintained in the employee's personnel file. Employees may appeal the action directly to Step 2 of the grievance procedure specified in 681—3.129(8A) or a comparable step in a grievance procedure approved in accordance with 3.129(1). If not satisfied with the decision rendered at that step, the employees may pursue their appeal in accordance with the grievance procedure.

3.116(4) No change.

3.116(5) *Eligibility for rehire.* An employee discharged for misconduct or unsatisfactory performance may be determined to be ineligible for reemployment with the same institution. The former employee will be promptly notified and may request review of the reason for disqualification. Such request shall be in writing, and upon receipt, the resident director will give full consideration to the request for review and notify the applicant of the resident director's decision in writing.

ITEM 27. Amend rule 681—3.127(8A) as follows:

681—3.127(8A) *Reviews of position classification.* Permanent employees and department heads may request a position classification review, and such requests shall be in written form. The employee's request will be forwarded to the resident director with a recommendation from the department head within ~~40 working~~ 14 days of the date of the request. The resident director or designee shall review the employee's and department head's request and with a recommendation forward the request to the merit system director within 20 working days. The merit system director or designee shall review and respond within 20 working days to the resident director who will inform the employee and department head. If the employee or department head is not satisfied with the merit system director's decision, that person may appeal the decision in writing within ~~15 working~~ seven days of the merit system director's decision to a qualified classification appeal committee appointed in accordance with the procedures approved by the board of regents.

The classification appeal committee will conduct such investigation as it deems necessary to determine the proper allocation of the position, and will notify the involved parties of its decision within 45 calendar days after the committee receives the appeal. Any further requests for review of the same position must be presented to the resident director in compliance with this rule and will be considered a new classification review. A new classification review will not be allowed for one year following the final decision on a request for review unless there have been substantial changes in the duties and responsibilities of the position. An appeal will be considered on the basis of duties and responsibilities assigned at the time of the original classification review, and in no case will the assignment of additional duties and responsibilities following the resident director's investigation of the original request for review be considered during the process of appeal as outlined above.

This rule is intended to implement Iowa Code ~~Supplement~~ section 8A.413.

ITEM 28. Amend rule 681—3.128(8A) as follows:

681—3.128(8A) Appeals on application, examination and certification procedures. Applicants may appeal an action which they allege to be in violation of these rules concerning applications, examinations or certifications concerning the form or content of the application or an examination. The aggrieved applicant will first discuss the matter with the resident director and, if not satisfied with the explanation and decision given, may within ~~20~~ 14 days after the occurrence of the alleged violation file a written appeal with the resident director at Step 3 of the grievance procedure provided in 681—3.129(8A), or at a comparable step of a procedure approved under 3.129(1). ~~If the applicant is not satisfied with the decision rendered at that step the applicant may pursue the appeal in accordance with the grievance procedure. If the grievance concerns the form or content of the application or an examination as approved by the merit system director, the director will act jointly with the resident director and at subsequent steps in response to an appeal. An appeal under this rule is not arbitrable beyond Step 3, or at a comparable step.~~

~~Appeals by applicants alleging improper discrimination on the basis of political or religious opinions or affiliations, or national origin, race, sex, disability or age in selection, will be filed at Step 3 in the grievance procedure provided in 681—3.129(8A) or at a comparable step of a procedure approved under 3.129(1).~~

~~This rule is intended to implement Iowa Code Supplement sections 8A.402, 8A.413, and 8A.416.~~

ITEM 29. Amend rule 681—3.129(8A) as follows:

681—3.129(8A) Grievances. Disputes or complaints by permanent employees regarding the interpretation or application of institutional rules governing terms of employment or working conditions (other than general wage levels) or the provisions of these merit system rules (other than disputes whose resolution is provided for in 681—3.127(8A) and 681—3.128(8A)) will be resolved in accordance with the following procedure, except at institutions where a varied procedure has been approved by the merit system director in accordance with 3.129(1). Employees in an initial probationary period will be allowed access to the grievance procedure as outlined below, with the right to appeal in writing at steps within the institution ~~exception of dismissal during probation which cannot be appealed~~. The institutional representative may permit an oral presentation at any step if the institutional representative deems one necessary. At each step of the grievance procedure, the employee may be represented by one or two coworkers of the employee's choosing. The name of such representatives will be noted on the written grievance and on each subsequent appeal. Presentations, reviews, investigations, and hearings held under this procedure may be conducted during working hours, and employees who participate in such meetings will not suffer loss of pay as a result thereof.

If an employee does not appeal a decision rendered at any step of this procedure within the time prescribed by these rules, the decision will become final. If an institutional representative does not reply to an employee's grievance or appeal within the prescribed time, the employee may proceed to the next step. With the consent of both parties, any of the time limits prescribed in these rules may be extended.

Step 1. A dissatisfied employee will first discuss the employee's problem with the employee's immediate supervisor. It is presumed that the majority of disputes, complaints, or misunderstandings will be resolved at this point. If the employee is still dissatisfied after such discussion, the employee may within ~~ten~~ 14 days after the occurrence of the matter leading to the grievance or within ~~ten~~ 14 days after such time that the employee has, or could reasonably be expected to have, knowledge of such occurrence, file a written grievance with the employee's department head or designee. A written grievance will contain a brief description of the complaint or dispute and the pertinent circumstances and dates of occurrence. It will specify the institutional or merit system rule which has allegedly been violated and will state the corrective action desired by the employee. The grievance will be signed and dated by the employee. The department head or designee will investigate the grievance and will, if deemed necessary, give the employee or a coworker of the employee's choosing the right to present the employee's case orally. The department head or designee will notify the employee of the decision in writing within ~~ten~~ 14 days after receiving the grievance.

Step 2. If the employee is not satisfied with the decision of the department head or designee, the employee may within ~~five~~ seven days after receiving that decision, appeal it to the dean of the college or the head of the major operating division or designee(s) in which the employee is employed. The dean or the division head and the resident director or designee(s) will jointly represent the institution at this step of the appeal procedure. The appeal will be in writing and will include all of the information included in the initial grievance and subsequent appeals, all the decisions related thereto, and any other pertinent information the employee may wish to submit. The appeal will be signed and dated by the employee.

The dean of the college or head of the division and the resident director or designee(s) will investigate the grievance and will, if deemed necessary, give the employee or a coworker of the employee's choosing the right to present the employee's case orally. The institutional representatives may affirm, reverse, or modify the decision of the department head and will notify the employee of their decision in writing within ~~ten~~ 14 days after receiving the appeal.

Step 3. If the employee is not satisfied with the decision rendered at Step 2 of the grievance procedure, the employee may within ~~five~~ seven days after receiving that decision appeal it to the chief administrator of the institution. The appeal will be in writing and will include all of the information included in the initial grievance and subsequent appeals, all decisions related thereto, and any other pertinent information the employee may wish to submit. The appeal will be signed and dated by the employee.

The chief administrator or the chief administrator's designee will investigate the grievance and will, if deemed necessary, give the employee or a coworker of the employee's choosing the right to present the employee's case orally. The chief administrator may affirm, reverse, or modify the decision rendered at Step 2 and will notify the employee of the administrator's decision in writing within ~~ten~~ 14 days after receiving the appeal.

Step 4. Employees not satisfied with the decision rendered under Step 3 may within ~~five~~ seven days after receiving that decision request a hearing before an arbitrator. Such a request will be in writing, will include all of the information included in the initial grievance and subsequent appeals, all of the decisions related thereto, and any other pertinent information the employee may wish to submit.

The appeal will be signed and dated by the employee and will be directed to the merit system director who will arrange for a hearing before an arbitrator as prescribed under 3.129(2). The arbitrator will be expected to render a decision within 30 calendar days following the conclusion of the hearing.

The merit system director shall have the right to rule whether a case is grievable and arbitrable under the merit system. The merit system director shall have the right to refuse to refer to arbitration any grievance not found to be in full compliance with these rules involving the grievance procedure. The board of regents shall retain jurisdiction to review decisions of the merit director as to whether a matter is grievable or arbitrable upon appeal by an employee.

3.129(1) and 3.129(2) No change.

ITEM 30. Amend rule 681—3.142(8A) as follows:

681—3.142(8A) Holidays. Permanent and probationary employees will be granted holidays approved by the board of regents, consistent with institutional policies and procedures.

ITEM 31. Amend rule 681—3.143(8A) as follows:

681—3.143(8A) Sick leave. Permanent and probationary employees will accrue sick leave as provided by law and will be entitled to such leave on presentation of satisfactory evidence, when requested. Permanent part-time employees will accrue sick leave in an amount equivalent to their fractional employment, and no employees will be granted sick leave in excess of their accumulation.

An employee who is transferred, promoted or demoted from one position to another position under this system will not lose any accumulated sick leave as a result thereof.

A permanent employee who has recovered after exhausting all accumulated sick leave and vacation time and has a medical release to return to work will, at the employee's request, be ~~placed on the reemployment list for the class the employee previously occupied and on reemployment lists for lower level classes for which the employee is qualified in accordance with 681—3.67(8A) to 681—3.70(8A)~~

~~for a period of up to two years from given recall priority consistent with 3.104(4), effective with the date the employee was released to return to work. Such employee acceptance of reemployment in a lower class will not affect the employee's standing on the reemployment list for the class that the employee formerly occupied. If reemployment occurs within two years of an employee's release to return to work following a medically related disability, prior service credit shall be restored. After two years on the reemployment eligibility list, the employee's name shall be removed.~~

ITEM 32. Amend rule 681—3.144(8A) as follows:

681—3.144(8A) Military leave. Permanent and probationary employees will be granted military leave as provided by law, with pay not to exceed 30 ~~calendar days~~ workdays in a calendar year.

ITEM 33. Amend rule 681—3.145(8A) as follows:

681—3.145(8A) Family leave. Eligible employees will be granted unpaid family leave in accordance with federal law (Family and Medical Leave Act) and board of regents and institutional policies and procedures.

ITEM 34. Amend rule 681—3.151(8A) as follows:

681—3.151(8A) ~~Disaster~~ American Red Cross disaster service volunteer leave. Subject to the approval of the appointing authority, an employee who is a certified disaster service volunteer for the American Red Cross may, at the request of the American Red Cross, be granted leave with pay to participate in disaster relief services relating to a disaster in the state of Iowa. Such leave shall be only for hours regularly scheduled to work and shall not be for more than 15 workdays in a fiscal year. Employees granted such leave shall not lose any rights or benefits of employment while on such leave. An employee while on leave under this rule shall not be deemed to be an employee of the state for purposes of workers' compensation or for the purposes of the Iowa tort claims Act.

This rule is intended to implement Iowa Code ~~Supplement~~ section 8A.413 and Iowa Code section 262.9(2).

ITEM 35. Adopt the following new rule 681—3.152(8A):

681—3.152(8A) Bone marrow and organ donation leave. Employees shall be granted leave pursuant to Iowa Code section 70A.39. An employee who is granted a leave of absence under Iowa Code section 70A.39 shall receive leave without loss of service, pay, vacation time, personal days, sick leave, insurance and health coverage benefits, or earned overtime accumulation. The employee shall be compensated at the employee's regular rate of pay for those regular work hours during which the employee is absent from work. An employee deemed to be on leave under Iowa Code section 70A.39 shall not be deemed to be an employee of the state for the purpose of workers' compensation for purposes of the Iowa tort claims Act.

[Filed 12/2/19, effective 2/5/20]

[Published 1/1/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/1/20.