Regulatory Analysis

Notice of Intended Action to be published: 681—Chapter 3
"Regents Human Resources Management—Merit System Rules"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 8A.412(5)
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 8A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 4, 2025	11260 Aurora Avenue
11 to 11:30 a.m.	Urbandale, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Board of Regents no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

Iowa Code chapter 8A requires the Board to adopt rules governing the general terms and conditions of employment for merit employees. The Board's merit rules establish a structured system for managing employee rights and responsibilities in all aspects of the employment relationship, including hiring, promotion, compensation and discipline. The Board proposes rescinding Chapter 3 and adopting a new chapter in lieu thereof. The new chapter eliminates outdated rules and unnecessary language.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs to be incurred by the public in order to comply with this proposed chapter.

- **Classes of persons that will benefit from the proposed rulemaking:**

Merit employees will benefit. The Regent universities currently employ approximately 6,300 merit employees who are subject to the expectations of and receive the rights, benefits and protections afforded by the Board's merit rules.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Economic costs to be incurred are typical of those necessary to oversee and manage a human resources department.

- **Qualitative description of impact:**

Economic costs to be incurred are typical of those necessary to oversee and manage a human resources department.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no unique or additional costs to the agency to implement this proposed rulemaking beyond normal human resources and administrative costs associated with managing a large employee population.

- **Anticipated effect on State revenues:**

There is no fiscal impact.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

This proposed chapter is required by statute; no comparison is required.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

No alternative methods were considered. This proposed chapter is required by statute.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered. This proposed chapter is required by statute.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no expected impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 681—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
REGENTS HUMAN RESOURCES MANAGEMENT—MERIT SYSTEM RULES
ORGANIZATION AND ADMINISTRATION

681—3.1(8A) Covered employees. All merit employees of the board will be covered under the rules of this system in accordance with Iowa Code section 8A.412(5).

681—3.2(8A) Administration.

3.2(1) Under authority of the board 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, related to merit staff employment and board policies and rules. At each board institution, the chief executive will designate an administrator to serve as resident director. The resident director will be responsible, through the chief executive at the institution, for 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 administration of the merit system is consistent with the provision of these rules.

3.2(2) The resident directors keep detailed records on each employee. They will also maintain records on operations conducted under these rules and report summaries to the merit system director as requested. Additionally, they will prepare other reports to ensure compliance with regents, state and federal standards. In collaboration with employing departments, the resident director will establish a program that will provide for the regular evaluations, at least annually, of the performance of all employees consistent with board and institutional policies.

DEFINITIONS

681—3.3(8A) Definitions.

"Active service" is a period of ongoing employment performing the duties of the position.

"Advanced starting rate" is a rate within the pay grade that is greater than the minimum rate of the pay grade for a specific classification as provided for in the approved pay plan.

"Base pay" means the employee's rate of pay exclusive of any supplemental pay, such as lead worker pay, pay for differentials, pay for special assignment, on-call pay, call back pay, or any other incentive premium pay.

"Board" means state 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.

"Classification" refers to one or more positions that have similar duties and responsibilities. These positions in the group can be given the same job title and require the same minimum qualifications as to education and experience. The same schedule of pay can be applied with equity to all positions in the classification under 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 designee requesting review of the classification of the employee's position.

"Classify" means to assign an appropriate classification based on the duties and responsibilities assigned to the position.

"Days" means calendar days unless designated otherwise.

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

"Department" or *"employing department"* is a unit or division within a regents institution defined locally by each institution.

"Designee" is an individual who has been selected to act on behalf of a designated authority.

"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 classification to a different position in the same classification or to another 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, subject to a satisfactory level of performance.

"Merit system director" is the person appointed by the executive director of the board to administer the merit system rules on behalf of the board.

"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 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 months or less, full-time or part-time, temporary or permanent, or occupied or vacant.

"Premium pay" means a sum of money paid for specific work in addition to the salary or hourly rate.

"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 or reemployment to a classification not previously held, a promotion, a voluntary demotion out of series or a lateral transfer out of classification. Employees hired on term appointments, as defined by rule 681—3.16(8A), are also subject to a probationary period.

"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.

"Recall" is the reappointment of an employee who was 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 classification, or demotion out of series. "Reemployment" may be used in place of "recall."

"Reclassify" means to make a change in the classification of a position to a higher, lower, or same pay grade based on an assessment of the tasks, duties, and responsibilities of the position or because of an amendment to the assigned pay grade in the classification plan.

"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 an organization or abolishment of one or more positions.

"Reinstatement" refers to the appointment of merit staff who previously exited in good standing.

"Resident director" is the person appointed by the chief executive of each regents institution to administer the merit system rules at that institution. The resident director may appoint designees authorized to administer the merit system rules.

"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.

CLASSIFICATION

681—3.4(8A) Preparation and maintenance of the classification plan. The merit system director, in consultation with the resident directors and subject to the approval of the board, shall develop and maintain a classification plan. This plan will ensure that all positions with similar duties, responsibilities, and levels of difficulty are included in the same class. Each class will have the same

minimum qualifications and an equitable pay schedule (except for geographical differences). The plan will include a class title; job definition; descriptions of the work performed; required knowledge, skills, and abilities; and the minimum qualifications for each class.

681—3.5(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 changes to existing classifications. Employing departments and employees may appeal classification and reclassification in accordance with rule 681—3.24(8A).

The merit system director, in consultation with the resident directors and subject to the approval of the board, may establish new classifications and change or abolish existing classifications that affect the merit system pay plan to meet the needs of the institutions and to properly reflect changes in work. 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 classifications and report such changes annually to the board. 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.

COMPENSATION PLAN

681—3.6(8A) Preparation, content and adoption of the pay plan. The board will adopt a pay plan for all the classes established in the classification plan. The pay plan will consist of numbered grades with minimums and maximums for each grade. The plan is intended to reflect the relative difficulty and responsibility of the work involved in the various classes. This relative difficulty and responsibility of work, in addition to market data that is pertinent to the labor market, will be utilized to assign classifications to pay grades. Market data sources and their application will be approved and administered under the direction of the merit system director. The plan will be uniformly applicable to all regents institutions, except for variances approved on the basis of geographical differences.

681—3.7(8A) Review and revision of the pay plan. At least once each year, the complete pay plan will be reviewed for revision by the board in the same manner and following the same procedure stated in rule 681—3.6(8A). At any time, new classes may be established and other revisions may be made in the plan to reflect proper relationships and to facilitate recruitment and retention. Such changes will be effective after approval by the board and other authority as required by law.

681—3.8(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 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 classification is assigned. 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. In instances where more than one rule for pay is applicable, the resident director may apply the rule that is most appropriate for the situation.

3.8(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 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 a resident director and based on economic or employment conditions that make it difficult to recruit at the minimum rate of the pay grade to which a classification of position is assigned, the merit system director may authorize an advanced starting rate. Where such a higher entrance rate is authorized, all employees

in the same 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. An employee whose qualifications substantially exceed the minimum required for the 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. At the request of the employing department, or at the discretion of the resident director, salaries of similarly qualified employees in the same classification with similar qualifications at the same institution may be adjusted. These appointments along with any salary adjustments made to other employees must be reported to the merit system director.

c. Appointments based on prior service at the institution. An employee who was previously employed by an appointing institution in a nonmerit system position and who performed duties of a similar character and responsibility as the merit classification to which the employee is 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.

d. Appointments from mergers and acquisitions. An employee who is appointed at a university due to a merger or acquisition should be paid consistent with current pay practices. If the salary of an employee 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. The resident director may request an extension to the merit system director due to special circumstances for a designated period of time.

3.8(2) *Merit increases.* An employee with satisfactory performance shall be eligible to receive a merit increase upon completion of the employee's increased eligibility period. The eligibility period shall be 12 months from the merit review date. Merit review date practices shall be established by the resident director at each institution. The resident director may allow for a merit review date at six months from the date of hire for an employee who is appointed 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. Merit increases may be denied or deferred by the employing department based on work performance. An employee whose merit increases are denied or deferred may request additional information from the department regarding the rationale.

3.8(3) *Pay on promotion.* An employee who is promoted will be moved to the minimum rate of the new grade or to an equal or higher rate in the new grade 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 of no greater than 10 percent without the approval of the merit system director.

When 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. Pay on promotion in accordance with the provisions of paragraph 3.8(1)*"b"* may be authorized by a resident director and will be reported to the merit system director.

3.8(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, except as provided in paragraph 3.8(1)*"b."*

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. The resident director may request an extension to the merit system director due to special circumstances for a designated period of time.

3.8(5) *Pay on reinstatement, recall or return from leave.*

a. An employee who is reinstated will be paid at a rate no greater than what the employee was last paid, plus any across-the-board increases that would have occurred during the time of nonemployment, and between the minimum and maximum of the pay grade.

b. An employee who is recalled to the previously occupied class will be paid at a rate no greater than what the employee was last paid, plus any across-the-board increases that would have occurred during the time of nonemployment, and between the minimum and maximum of the pay grade. Reemployment to the previously occupied class from a position taken as a voluntary demotion in lieu of layoff will not be considered a promotion.

c. An employee who is reappointed to the previously occupied position or a position in the same class on conclusion of a leave without pay will be paid in accordance with the provisions concerning pay on recall as provided above.

3.8(6) *Pay for special assignment.* Provided an employee is granted special assignment in accordance with subrule 3.19(2), the employee will be paid for the duration of such assignment consistent with:

a. Subrule 3.8(3), pay on promotion, if assigned to a classification having a higher pay grade;

b. Subrule 3.8(7), pay on lateral transfer, if assigned to a classification having the same pay grade;

c. The present base pay if assigned to a classification having a lower pay grade.

3.8(7) *Pay on lateral transfer.*

a. An employee who is transferred from one position to another position in the same classification shall receive no adjustment in base pay except as provided in paragraph 3.8(1)*"b"*;

b. An employee who is transferred from one position to another position in a different classification but in the same pay grade shall receive no adjustment in base pay, except as provided in paragraph 3.8(1)*"b"* or as set forth in paragraph 3.8(7)*"c"*;

c. An employee who is transferred from one classification with a lower or no advanced starting rate to a 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; or

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

3.8(8) *Pay upon change in pay grade of class.* If the class is revised and reassigned to a higher pay grade, subrule 3.8(3), pay on promotion, will apply.

If the class is revised and reassigned to a lower pay grade, subrule 3.8(4), pay on demotion, will apply.

3.8(9) *Pay for part-time employment.* Pay for part-time employment will be proportionately equivalent to the rate for full-time employment.

3.8(10) *Pay for exceptional performance.* An employee may be given pay for exceptional performance, not to exceed 10 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 base pay. An employee will be eligible to receive multiple rewards per fiscal year but not to cumulatively exceed 10 percent of the employee's current annual salary.

3.8(11) *Pay for call back.* An employee who is called back to the work site after completing the employee's regular work schedule will be paid for a minimum period of three hours, regardless of the time worked. An employee who is called back and works in excess of three hours will be paid the actual time worked.

3.8(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 a percentage of the employee's base pay no greater than 5 percent without the approval of the merit system director.

3.8(13) *Pay for trainees and apprentices.* The schedule of wages for trainees and apprentices will be set at the minimum of the entrance rate of the journey classification and decreased by 3 percent for every year of the program. Each employee whose performance is satisfactory as determined by the employing department will progress by half of the annual increase every six months from the established minimum of the schedule to the entrance rate established for the journey classification at the completion of time established for training or apprenticeship.

3.8(14) *Discretionary pay increases for permanent employees.* A permanent employee paid within the designated pay grade may be eligible for a discretionary increase to the employee's 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.

3.8(15) *Payment of a shift differential.* All employees will be paid a differential for any shift of which four or more hours occur between 6 p.m. and midnight and a shift differential for any shift of which four or more hours occur between midnight and 6 a.m. The amount of the shift differential paid shall be determined by the merit system director and may vary between or within institutions based on geographical or market differences.

3.8(16) *Pay for time on-call.* At the request of the employer, an employee who is off duty and free to engage in the employee's own pursuits shall be considered on-call provided that the employee leaves word with the employer where to be reached if needed and the employee is able to report ready for work within a specified time after being contacted by the employer. The rate for on-call pay shall be determined by the merit system director.

3.8(17) *Pay on reclassification of position.* If a position is reclassified, the incumbent's pay will be set in accordance with the rules governing pay on demotion, transfer, or promotion, whichever is applicable.

3.8(18) *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 may be required to 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 may 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.

3.8(19) *Emergency payments.* When a state of emergency has been declared to exist at an institution, an employee may be given emergency pay at the written request of the employee's

department head with appropriate administrative approval and the prior approval of the merit system director and resident director. The request will describe the nature of the state of emergency, the services provided by the employee in support of the management of or response to the state of emergency, the amount proposed, and the source of funds. Payment will be made as a lump sum award and will not change the employee's established salary rate.

3.8(20) *Payment of a weekend differential.* At the request of the resident director and with approval from the merit system director, an employee may be paid a weekend differential for any shift of which four or more hours occur between Saturday at 12 midnight and Sunday at 11:59 p.m. The amount of the weekend differential paid shall be determined by the merit system director and may vary between or within institutions based on geographical or market differences.

3.8(21) *Weekend option premium pay.* When an employee works the weekend as the employee's primary schedule, the institution may request premium pay that is part of the employee's hourly rate. The amount of the premium pay shall be determined by the merit system director and may vary between or within institutions based on geographical or market differences.

3.8(22) *Payment for working additional shifts.* At the request of the resident director and with approval from the merit system director, when an employee works four or more unscheduled hours at the request of the employer, the employee may be paid an extra shift hourly premium. The amount of the premium paid shall be determined by the merit system director and may vary between or within institutions based on geographical or market differences.

3.8(23) *Lump sum payments.* At the approval of the resident director, an employee may receive a lump sum payment that does not impact base salary. These payments can be part of the annual salary review process or another designated time. These payments are allowed once per fiscal year and are separate from any other pay practices in the merit rules.

APPLICATION AND EVALUATION

681—3.9(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 applicant. Public announcement of vacancies will be made for ten calendar days. A record of applications for employment will be kept at the institution in their recruitment and hiring system of record for a period of time to be designated by the resident director and pursuant to the institution record retention policies. Each institution may post recruitment announcements for application by employees of that institution only.

681—3.10(8A) Applicant evaluations. Evaluations will be practical in nature, will be constructed to reveal the capacity to successfully perform the job for which the applicant is competing, will be rated objectively, and will be pursuant to federal or state law.

681—3.11(8A) Nature of evaluations. Applicant evaluations may screen for such factors as education, experience, aptitude, knowledge, character, physical fitness, or other qualifications or attributes that enter into the determination of the relative qualification of applicants. The evaluation process must align with federal or state laws and must be approved by each institution's resident director.

681—3.12(8A) Qualifications. Applicants must meet the qualifications for the classification as indicated in the board classification description, as well as any special qualifications associated with a particular position, which are approved by the resident director. Those applicants who meet the required qualifications shall be eligible for further consideration for hire, transfer or promotion in the position.

APPOINTMENTS AND PROBATION

681—3.13(8A) Appointments. All appointments under this system will be made in accordance with all federal and state laws and the provisions of these rules, including those concerning certification and selection unless otherwise specified.

681—3.14(8A) Temporary appointments. Temporary appointments may be made and approved by the resident director to provide for services needed on a periodic basis. Appointments may be made without reference to the provision of these rules regarding minimum qualifications, certification, and selection. Employees appointed on this basis will not work more than 1040 hours in any fiscal year.

681—3.15(8A) Trainee or apprentice 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 of 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 to move into the regular classification.

681—3.16(8A) 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 term appointment may be made. The initial appointment will not be made for more than two years. Renewals beyond two years may be approved by the resident director on the basis of funding availability or institutional limits on term appointments.

Employees on a term appointment are subject to a probationary period. An employee on term appointment subsequently hired as a regular employee in the same classification is not required to complete an additional probationary period.

Such appointments will not confer to the individual any right of position, transfer, demotion, promotion, or recall, but incumbents shall be eligible for vacation and sick leave, except that a term appointment made for less than 1040 hours will be considered a temporary appointment under rule 681—3.14(8A) without conferring rights or eligibility for vacation or sick leave.

681—3.17(8A) Permanent appointments. An applicant who is appointed with the approval of the hiring authority designated by each individual institution to a permanent position and who successfully completes a probationary period in accordance with these rules will have permanent status.

681—3.18(8A) Probationary period.

3.18(1) *Purpose.* The probationary period will be an important part of the examination and selection process, and will be used by the employing department to closely observe and evaluate an employee's work, to train and aid the employee in adjustment to the employee's position and to reject and dismiss any employee whose performance fails to meet standards.

3.18(2) *Duration of probation.* An employee on original appointment or who is reinstated or reemployed to a class not previously held will be on probation until the person completes six months of active service in the position to which the employee is appointed. This will be extended by the same number of days for leaves of absence of more than 30 days. If a probationary employee is not dismissed during this time, the person will, at the conclusion of the probationary period, have permanent status in that class. A period of temporary employment immediately preceding a permanent appointment to the same class may, at the request of the employing department, be counted as probationary service.

A permanent employee who is promoted from one class to another, who transfers out of classification, or who demotes out of classification series will serve a period of probation of six months in the position to which the employee is appointed. If the employee is not dismissed during this time, the employee will, at the conclusion of the probationary period, have permanent status in the class.

3.18(3) *Dismissal during promotional probation.* An employee who is promoted from one classification to another, who transfers out of classification, or who demotes out of classification series and is dismissed during the employee's probationary period may be placed on the recall list for a previously held classification if, in the judgment of the resident director, the employee may be able to perform satisfactorily in another position.

TRANSFERS, DEMOTIONS AND TERMINATIONS

681—3.19(8A) Transfers.

3.19(1) *Reassignments.* An employee, with the approval of the resident director, may be reassigned at any time from one position to another in the same class within an institution, except that a probationary employee who is certified to fill the employee's position on the basis of special qualifications will not be reassigned unless the new position requires the same special qualifications that justified the original certification.

3.19(2) *Special assignment.* When the services of an employee are temporarily needed in a position in the same or a different class within the institution other than the position to which the employee is assigned, the employee may be given a special assignment, with the prior approval of the resident director and involved departments, to perform the duties of such position for a period not to exceed six months without a change in title or status. In unusual circumstances, an extension of a special assignment for no more than one additional six-month period may be approved by the merit system director on written request from the resident director. Employees will be paid for a special assignment in accordance with subrule 3.8(6).

681—3.20(8A) Demotion (voluntary). If an employee wishes to be demoted to a lower 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 classification. Voluntary demotion will not be subject to appeal.

681—3.21(8A) Terminations.

3.21(1) *Reduction in force.*

a. 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 25 workdays or 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 classification in the same or a higher pay grade;

(4) The reclassification of an employee's position to a classification in a lower pay grade that results from the correction of a classification error, the implementation of a 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 classification in a lower pay grade resulting from a demotion; and

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

b. An individual whose position is eliminated or reduced in hours may be reassigned to a vacant position in the same classification and institution provided the individual possesses any required special qualifications for the position. If there is no vacant position to which the individual can be reassigned, the individual may accept layoff with recall priority as provided in paragraph 3.21(1)*"n."* If the individual directly affected does not accept layoff, the reduction in force procedures in this subrule shall be implemented.

c. Reduction in force will be made by classification.

d. 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.

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

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

g. There will be competition among all employees in the classification affected by the layoff based on a retention points system of all employees in the 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 deduction will be allowed at the rate of one point for each month of 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, less any deduction for unsatisfactory performance.

h. Employees will be placed on the layoff list beginning with the employee with the greatest number of retention points at the 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. An employee with greater retention points who must vacate the employee's position 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.

i. 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 classification.

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

k. An affected employee may appeal a reduction in force by filing, within seven days after notification as provided in paragraph 3.21(1)*"f,"* a written grievance with the resident director (at Step 3 of the grievance procedure provided in rule 681—3.25(8A) or at a comparable step of a procedure approved under subrule 3.25(1)). If not satisfied with the decision rendered at that step, the employee may pursue an appeal in accordance with the grievance procedure.

l. 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 fewer retention points than a supervisory employee.

m. A permanent employee in a nonsupervisory classification in which layoffs are to be effected may, in lieu of layoff, elect voluntary demotion to a position in the next lower nonsupervisory classification in the same series utilized at the institution or, in the absence of a lower nonsupervisory classification in the same series, to a nonsupervisory classification that 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 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.

n. An employee who is laid off or who accepts a voluntary demotion in a series or assignment to a previously held classification in lieu of layoff may, at the employee's request, initiate recall priority for the classification from which the employee was laid off, a lower classification(s) in the same series from which the employee was laid off, and a classification formerly occupied in accordance with rule 681—3.22(8A) for a period of up to one year from the date of layoff. If recall occurs within one year of separation due to reduction in force, prior service credit shall be restored. Acceptance of recall in a lower classification in the same series from which the employee was laid off or in a previously held classification will not affect the employee's recall priority for the classification from which the employee was laid off.

o. Recall priority will utilize the retention points calculated in accordance with subrule 3.21(1), 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.

3.21(2) Reserved.

681—3.22(8A) Recall lists. 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 paragraph 3.21(1)*"i"* and rule 681—3.26(8A) or in accordance with subrule 3.18(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. Recall rights apply only to classifications for which the employee is eligible in accordance with these rules.

3.22(1) *Removal of names from recall lists.* The resident director may permanently or temporarily remove names from recall lists for the following reasons:

a. Upon receipt of notification from an applicant that the applicant no longer desires consideration for a position in the classification.

b. Appointment 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 an appointment that an applicant previously indicated the applicant 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 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.

3.22(2) *Duration of recall lists.* The names of employees 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.

3.22(3) *Precedence of eligibility lists.* Recall lists will supersede other applicants.

DISCIPLINARY ACTIONS

681—3.23(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.

3.23(1) *Suspension.* The employing department may, for cause, suspend any employee for such length of time as the department head considers appropriate, not to exceed 30 days. The employing department 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 official record. An employee may appeal the action directly to Step 2 of the grievance procedure specified in rule 681—3.25(8A) or to a comparable step in a grievance procedure approved in accordance with subrule 3.25(1). If not satisfied with the decision rendered at that step, an employee may pursue the employee's appeal in accordance with the grievance procedure.

3.23(2) *Reduction of pay within grade.* An employing department may, for cause, reduce the pay of an employee to a lower rate of pay within the pay grade assigned to the classification. The department 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 official record. An employee may appeal the action directly to Step 2 of the grievance procedure specified in rule 681—3.25(8A) or a comparable step in a grievance procedure approved in accordance with subrule 3.25(1). If not satisfied with the decision rendered at that step, an employee may pursue the employee's appeal in accordance with the grievance procedure.

3.23(3) *Demotion.* An employing department may, for cause, demote an employee to a vacant position in a lower classification provided the employee meets the qualifications for that lower 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 official record. An employee may appeal the action directly to Step 2 of the grievance procedure specified in rule 681—3.25(8A) or a comparable step in a grievance procedure approved in accordance with subrule 3.25(1). If not satisfied with the decision rendered at that step, an employee may pursue the employee's appeal in accordance with the grievance procedure.

3.23(4) *Discharge.* A department head may, for cause, discharge any employee. The department head will notify the affected employee of the discharge and the reasons therefor in writing within 24 hours of the time the action is taken. A copy of the notice of discharge will be sent by the department to the resident director and will be maintained in the employee's official record. An employee may appeal the action directly to Step 2 of the grievance procedure specified in rule 681—3.25(8A) or a comparable step in a grievance procedure approved in accordance with subrule 3.25(1). If not satisfied with the decision rendered at that step, an employee may pursue the employee's appeal in accordance with the grievance procedure.

3.23(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.

GRIEVANCES AND APPEALS

681—3.24(8A) Reviews of position classification. A permanent employee or department designee may request a position classification review in written form. The employee's or designee's request will be forwarded to the college or division with a recommendation from the department head within 14 days of the date of the request. The college or division will forward the request to the resident director within 14 days. The resident director shall provide a recommendation to the merit system director within 20 working days. The merit system director or designee shall provide a decision within 20 working days to the resident director who will inform the employee and department designee. If the employee or department is not satisfied with the merit system director's decision, the employee or designee may appeal the decision in writing within seven days of the decision to a qualified classification appeal committee appointed in accordance with the procedures approved by the board.

The classification appeal committee will conduct such investigation as it deems necessary to determine the proper classification of the position and will notify the involved parties of its decision within 45 days from receipt of 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 based on the 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.

681—3.25(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 rule 681—3.24(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 subrule 3.25(1). Employees in an initial probationary period will be allowed access to the grievance procedure as outlined below, with the exception of dismissal during probation that cannot be appealed. A university representative may permit an oral presentation at any step if the university representative deems an oral presentation 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 a university 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. An employee will first discuss the employee's problem with their immediate supervisor. It is presumed the majority of issues will be resolved at this point. If the employee is dissatisfied after such discussion, the employee may, within 14 days after the occurrence of the matter leading to the grievance or within 14 days after such time the employee has, or could reasonably be expected to have, knowledge of such occurrence, file a written grievance with their 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 university or merit system rule allegedly violated and will state the corrective action desired by the employee. The grievance will be signed and dated by the employee. The department designee will review the grievance and notify the employee of the decision in writing within 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 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 university 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 may affirm, reverse, or modify the decision of the department head. The university representative will notify the employee of their decision in writing within 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 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 may affirm, reverse, or modify the decision rendered at Step 2. The university representative will notify the employee of their decision in writing within 14 days after receiving the appeal.

Step 4. If the employee is not satisfied with the decision rendered under Step 3 of the grievance procedure, the employee may within 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 subrule 3.25(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 shall retain jurisdiction to review decisions of the merit system director as to whether a matter is grievable or arbitrable upon appeal by an employee.

3.25(1) *Institutional grievance procedure.* An institution may develop a grievance procedure for all or a segment of its employees that varies from the procedure prescribed in rule 681—3.25(8A) provided that such a procedure begins with discussion between the employee and the employee's immediate supervisor and provides for a final hearing in accordance with Step 4 of the grievance procedure prescribed herein. This institutional procedure will incorporate all the rights provided employees in this chapter, will be made known to the employees to whom it applies, and must be approved by the merit system director. In the absence of an approved institutional procedure, the procedure prescribed in rule 681—3.25(8A) will apply.

3.25(2) *Appeals.* The board will approve the use of a single arbitrator in hearing an appeal. The selection of the arbitrator shall be made from a panel of arbitrators as referred from the Federal Mediation and Conciliation Service or the Iowa employment appeal board with a preference for those Iowans so certified.

The arbitrator will hear a dispute appealed to the last step of the grievance procedure and render a decision thereon subject only to review by the courts.

The arbitrator will establish procedures for the conduct of the hearing in a fair and informal manner that will afford each party reasonable and ample opportunity for case presentation and to rebut the presentation of the other. The arbitrator will be expected to render a decision to the involved parties and to the board within the prescribed time.

LEAVES OF ABSENCE

681—3.26(8A) Sick leave. 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 given recall priority consistent with subrule 3.21(1), effective with the date the employee was released to return to work.

681—3.27(8A) Family care and funeral leave. An employing department will, when satisfied by evidence presented, grant an employee time off with pay:

1. Not to exceed three days for each occurrence in the case of death in the employee's immediate family;
2. Not to exceed one day for each occurrence for service as a pallbearer at the funeral of a person not a member of the employee's immediate family; and
3. Not to exceed 40 hours a year for the care of or necessary attention of ill or injured members of the employee's immediate family. An employee may carry over up to 40 hours of unused family care leave to the next year, for a maximum utilization of 80 hours in the next year.

All such time off will be charged to the employee's sick leave and will not be granted in excess of the employee's accrued leave. For the purpose of this rule, "immediate family" is defined as the employee's spouse, children, grandchildren, foster children, stepchildren, legal wards, parents, grandparents, foster parents, stepparents, brothers, foster brothers, stepbrothers, sons-in-law, brothers-in-law, sisters, foster sisters, stepsisters, daughters-in-law, sisters-in-law, aunts, uncles, nieces, nephews, first cousins, corresponding relatives of the employee's spouse, and other persons who are members of the employee's household.

681—3.28(8A) Leave of absence without pay. In the best interests of the institution and its employees and with approval of the resident director, a department head may grant an employee's requests for a leave of absence without pay for up to one year. With the same approval, such a leave may be extended for no more than one additional year.

On conclusion of a leave of absence without pay, an employee, if qualified, will be returned to the position from which the employee was granted leave or to another position in the same class. If such a position no longer exists, the layoff provisions of these rules will take effect.

These rules are intended to implement Iowa Code section 8A.412(5).