

REGENTS BOARD[681]

[Prior to 4/20/88, Regents, Board of [720]]

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CHAPTER 1
ADMISSION RULES COMMON TO THE THREE STATE UNIVERSITIES

[Prior to 4/20/88, Regents, Board of[720]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

PREAMBLE

The state board of regents has adopted the following requirements governing admission of students to the three state universities.

Each university is expected to describe in its catalog the requirements and other information necessary to make the admission process operate within the framework of these requirements.

The regent universities recognize that the traditional measures of academic performance do not adequately describe some students' potential for success. Therefore, the regent universities strongly encourage all interested students to apply for admission. Applicants who feel their academic record is not an accurate reflection of their potential for success are encouraged to provide supplemental information explaining their circumstances, in addition to the application, academic transcripts, and test scores.

[ARC 2051C, IAB 7/8/15, effective 8/12/15; ARC 6304C, IAB 5/4/22, effective 6/8/22]

681—1.1(262) Admission of undergraduate students directly from high school. Students desiring admission to the University of Iowa, Iowa State University, or the University of Northern Iowa must meet the requirements in this rule and also any special requirements for the curriculum, school, or college of their choice.

1.1(1) Application. Applicants must submit a formal application for admission, together with the appropriate application fee as approved by the state board of regents pursuant to Iowa Code section 262.9(19) and detailed in rule 681—1.7(262), and have their secondary school provide a transcript of their academic record, including credits and grades, rank in class (when available), and certification of graduation. Applicants may also submit SAT Reasoning Test or ACT scores. Applicants whose primary language is not English must also meet the English language proficiency requirement specified by each university. Applicants may be required to submit additional information or data to support their applications.

1.1(2) Admission criteria.

a. A regent admission index (RAI) will be calculated for freshman applicants who submit all components used in the equation below. For purposes of calculating the RAI, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents), high school GPA is expressed on a four-point scale, and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

$$\text{RAI} = (3 \times \text{ACT composite score}) + \frac{(30 \times \text{high school grade point average})}{\text{average}} + (5 \times \text{number of high school courses completed in the core subject areas})$$

b. Freshman applicants from Iowa high schools who have an RAI of at least 245 and who meet the minimum requirements of the regent universities will qualify for automatic admission to any of the three regent universities. Freshman applicants who have an RAI below 245 or who do not have all components used in the RAI may also be admitted to a specific regent university; however, each regent university will review these applications on an individual basis, and admission decisions will be specific to each institution.

1.1(3) Graduates of approved high schools in other states may be held to higher academic standards, but must meet at least the same requirements as graduates of Iowa high schools. The options for conditional admission or summer tryout enrollment may not necessarily be offered to these students.

1.1(4) Applicants who are graduates of nonapproved high schools will be considered for admission in a manner similar to applicants from approved high schools, but additional emphasis will be given to scores obtained on standardized examinations.

1.1(5) Applicants who are not high school graduates, but whose classes have graduated, may be considered for admission. These applicants will be required to submit all academic data to the extent that it exists and achieve scores on standardized examinations which will demonstrate that they are adequately prepared for academic study.

1.1(6) Early admission.

a. Students with superior academic records may be admitted, on an individual basis, for part-time university study while enrolled in high school or during the summers prior to high school graduation.

b. In rare situations, exceptional students may be admitted as full-time students to a regent university before completing high school. Early admission to a regent university is provided to serve persons whose academic achievement and personal and intellectual maturity clearly suggest readiness for collegiate level study. Each university will specify requirements and conditions for early admission.

This rule is intended to implement Iowa Code section 262.9(3).

[ARC 2051C, IAB 7/8/15, effective 8/12/15; ARC 4079C, IAB 10/10/18, effective 11/14/18; ARC 5946C, IAB 10/6/21, effective 11/10/21; ARC 6304C, IAB 5/4/22, effective 6/8/22]

681—1.2(262) Admission of undergraduate students by transfer from other colleges. Students desiring admission to the University of Iowa, Iowa State University, or the University of Northern Iowa must meet the requirements in this rule and also any special requirements for the curriculum, school, or college of their choice.

Applicants must submit a formal application for admission, together with the appropriate application fee as approved by the state board of regents pursuant to Iowa Code section 262.9(19) and detailed in rule 681—1.7(262), and request that each college they have attended send an official transcript of record to the admissions office. High school academic records and standardized test results may also be required. The Test of English as a Foreign Language (TOEFL) is required of foreign students whose first language is not English.

1.2(1) Transfer applicants with a minimum of 24 semester hours of graded credit from colleges or universities accredited by an entity recognized by the U.S. Department of Education, who have achieved for all college work previously attempted the grade point required by each university for specific programs, will be admitted. Higher academic standards may be required of students who are not residents of Iowa.

Applicants who have not maintained the grade point required by each university for specific programs or who are under academic suspension from the last college attended may, after a review of their academic and test records, and at the discretion of the admissions officers:

- a.* Be admitted unconditionally,
- b.* Be admitted conditionally,
- c.* Be required to enroll for a tryout period during a preceding summer session, or
- d.* Be denied admission.

1.2(2) Admission of students with fewer than 24 semester hours of college credit will be based on high school academic records in addition to review of the college record.

1.2(3) Transfer applicants under disciplinary suspension will not be considered for admission until information concerning the reason for the suspension has been received from the college assigning the suspension. Applicants granted admission under these circumstances will be admitted on probation.

1.2(4) Transfer applicants from colleges and universities not accredited by an entity recognized by the U.S. Department of Education will be considered for admission on an individual basis taking into account all available academic information.

This rule is intended to implement Iowa Code section 262.9(3).

[ARC 5946C, IAB 10/6/21, effective 11/10/21; ARC 6304C, IAB 5/4/22, effective 6/8/22]

681—1.3(262) Transfer credit practices. The regent universities endorse the Joint Statement on Transfer and Award of Academic Credit approved in 1978 by the American Council on Education (ACE), the American Association of Collegiate Registrars and Admissions Officers (AACRAO), and the Council on Postsecondary Accreditation (COPA). The current issue of Transfer Credit Practices of Selected Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), and publications of the Council on Postsecondary Accreditation (COPA) are

examples of references used by the universities in determining transfer credit. The acceptance and use of transfer credit is subject to limitations in accordance with the educational policies operative at each university.

1.3(1) *Students from colleges and universities accredited by an entity recognized by the U.S. Department of Education.* Credit earned at colleges and universities accredited by an entity recognized by the U.S. Department of Education is acceptable for transfer except that credit in courses determined by the receiving university to be of a remedial, vocational, or technical nature, or credit in courses or programs in which the institution granting the credit is not directly involved, may not be accepted, or may be accepted to a limited extent.

Of the coursework earned at a two-year college, students may apply up to one-half but no more than 65 hours of the credits required for a bachelor's degree toward that degree at a regent university. This policy becomes effective September 29, 1993.

1.3(2) *Students from colleges and universities which have candidate status.* Credit earned at colleges and universities which have become candidates for accreditation by an entity recognized by the U.S. Department of Education is acceptable for transfer in a manner similar to that from colleges and universities accredited by an entity recognized by the U.S. Department of Education if the credit is applicable to the bachelor's degree at the receiving university.

Credit earned at the junior and senior classification from an accredited two-year college which has received approval by an entity recognized by the U.S. Department of Education for change to a four-year college may be accepted by a regent university.

1.3(3) *Students from colleges and universities not accredited by an entity recognized by the U.S. Department of Education.* When students are admitted from colleges and universities not accredited by an entity recognized by the U.S. Department of Education, they may validate portions or all of their transfer credit by satisfactory academic study in residence, or by examination. Each university will specify the amount of the transfer credit and the terms of the validation process at the time of admission.

In determining the acceptability of transfer credit from colleges in states other than Iowa which are not accredited by an entity recognized by the U.S. Department of Education, acceptance practices indicated in the current issue of Transfer Credit Practices of Selected Educational Institutions will be used as a guide. For institutions not listed in the publication, guidance is requested from the designated reporting institution of the appropriate state.

1.3(4) *Students from foreign colleges and universities.* Transfer credit from foreign educational institutions may be granted after a determination of the type of institution involved and after an evaluation of the content, level, and comparability of the study to courses and programs at the receiving university. Credit may be granted in specific courses, but is frequently assigned to general areas of study. Extensive use is made of professional journals and references which describe the education systems and programs of individual countries.

This rule is intended to implement Iowa Code section 262.9(3).

[ARC 5946C, IAB 10/6/21, effective 11/10/21]

681—1.4(262) Classification of residents and nonresidents for admission, tuition, and fee purposes.

1.4(1) General.

a. A person enrolling at one of the three state universities shall be classified as a resident or nonresident for admission, tuition, and fee purposes by the registrar or someone designated by the registrar. The decision shall be based upon information furnished by the student and other relevant information.

b. In determining resident or nonresident classification, the issue is essentially one of why the person is in the state of Iowa. If the person is in the state primarily for educational purposes, that person will be considered a nonresident. For example, it may be possible that an individual could qualify as a resident of Iowa for such purposes as voting, or holding an Iowa driver's license, and not meet the residency requirements as established by the board of regents for admission, tuition, and fee purposes.

c. The registrar, or designated person, is authorized to require written documents, affidavits, verifications, or other evidence deemed necessary to determine why a student is in Iowa. The burden of establishing that a student is in Iowa for other than educational purposes is upon the student.

A student may be required to file any or all of the following:

- (1) A statement from the student describing employment and expected sources of support;
- (2) A statement from the student's employer;
- (3) A statement from the student's parents verifying nonsupport and the fact that the student was not listed as a dependent on tax returns for the past year and will not be so listed in future years;
- (4) A statement from the student's spouse related to sources of family support, length of residence in Iowa, and reasons for being in the state of Iowa;
- (5) Supporting statements from persons who might be familiar with the family situation;
- (6) Iowa state income tax return.

d. Applications for resident classification for a given semester or session are due no later than the fifteenth class day of that semester or session. Applications received after the fifteenth class day of that semester or session will be considered for the next semester or session. Appeals of any nonresident classification decision resulting from applications for resident classifications are due no later than midterm of that semester or session. Change of classification from nonresident to resident will not be made retroactive beyond the term in which application for resident classification is made.

e. A student who gives incorrect or misleading information to evade payment of nonresident fees shall be subject to serious disciplinary action and must also pay the nonresident fees for each term previously attended.

f. Review committee. These regulations shall be administered by the registrar or someone designated by the registrar. The decision of the registrar or designated person may be appealed to a university review committee. The decision of the review committee may be appealed to the state board of regents.

1.4(2) Guidelines.

a. The following general guidelines are used in determining the resident classification of a student for admission, tuition, and fee purposes:

(1) A financially dependent student whose parents move from Iowa after the student is enrolled remains a resident provided the student maintains continuous enrollment. A financially dependent student whose parents move from Iowa during the senior year of high school will be considered a resident provided the student has not established domicile in another state.

(2) In deciding why a person is in the state of Iowa, the person's domicile will be considered. A person's domicile is presumed to be that of the parent(s) or legal guardian unless the person is independent and establishes a separate domicile. A person who comes to Iowa from another state and enrolls in any institution of postsecondary education for a full program or substantially a full program shall be presumed to have come to Iowa primarily for educational reasons rather than to establish a domicile in Iowa.

(3) A student who was a former resident of Iowa may continue to be considered a resident provided absence from the state was for a period of less than 12 months and provided domicile is reestablished. If the absence from the state is for a period exceeding 12 months, a former resident may be considered a resident if evidence can be presented showing that the student has long-term ties to Iowa and reestablishes an Iowa domicile.

A person or the dependent of a person whose domicile is permanently established in Iowa, who has been classified as a resident for admission, tuition, and fee purposes, may continue to be classified as a resident so long as domicile is maintained, even though circumstances may require extended absence of the person from the state. It is required that a person who claims Iowa domicile while living in another state or country will provide proof of the continual Iowa domicile.

(4) A student who moves to Iowa may be eligible for resident classification at the next registration following 12 consecutive months in the state provided the student is not enrolled as more than a half-time student (6 credits for an undergraduate or professional student, 5 credits for a graduate student) in any academic year term at any postsecondary institution, is not enrolled for more than 4 credits in a summer or winter term at any postsecondary institution for any classification, and provides sufficient evidence of the establishment of an Iowa domicile.

(5) A student who has been a continuous student and whose parents move to Iowa may become a resident at the beginning of the next term provided the student is dependent upon the parents for a majority of financial assistance.

(6) A person who has been certified as a refugee or granted asylum by the appropriate agency of the United States who enrolls as a student at a university governed by the Iowa state board of regents may be accorded immediate resident status for admission, tuition, and fee purposes when the person:

1. Comes directly to the state of Iowa from a refugee facility or port of debarkation, or
2. Comes to the state of Iowa within a reasonable time and has not established domicile in another state.

Any refugee or individual granted asylum not meeting these standards will be presumed to be a nonresident for admission, tuition, and fee purposes and thus subject to the usual method of proof of establishment of Iowa residency.

(7) An alien who has immigrant status establishes Iowa residency in the same manner as a United States citizen.

(8) At the regent institutions, American Indians who have origins in any of the original people of North America and who maintain a cultural identification through tribal affiliation or community recognition with one or more of the tribes or nations connected historically with the present state of Iowa, including the Iowa, Kickapoo, Menominee, Miami, Missouri, Ojibwa (Chippewa), Omaha, Oneida (Narragansett), Otoe (Otto), Ottawa (Odawa), Potawatomi, Sac and Fox (Sauk, Meskwaki), Sioux, and Winnebago (HoCak, Ho Chunk), will be assessed Iowa resident tuition and fees.

(9) Individuals who have received a homeless youth determination may be classified as residents for tuition and fee purposes.

b. Additional guidelines are used in determining the resident classification of a veteran, qualified military person, and other qualified individuals for purposes of undergraduate, graduate, professional, or certificate tuition and mandatory fees:

(1) A person who is stationed on active duty at the Rock Island arsenal as a result of military orders, or the child or spouse/domestic partner of such person, is entitled to resident status for purposes of undergraduate, graduate, professional, or certificate tuition and mandatory fees. The child or spouse/domestic partner may be required to submit appropriate documentation to the university.

(2) The rules for classification of veterans and qualified individuals shall be in full compliance with all federal laws, including Section 702 of the Veterans Access, Choice, and Accountability Act of 2014 (Choice Act). The qualified individual may be required to submit appropriate documentation to the university.

(3) A person who is moved into the state as the result of military or civil orders from the government for other than educational purposes, or the child or spouse/domestic partner of such a person, is entitled to resident status. The child or spouse/domestic partner may be required to submit appropriate documentation to the university. Legislation, effective July 1, 1977, requires that military personnel who claim residency in Iowa (home of record) will be required to file Iowa resident income tax returns.

This rule is intended to implement Iowa Code section 262.9(3).

[ARC 7911B, IAB 7/1/09, effective 7/1/09; ARC 1991C, IAB 5/13/15, effective 6/17/15; ARC 2332C, IAB 12/23/15, effective 12/23/15; ARC 5946C, IAB 10/6/21, effective 11/10/21]

681—1.5(262) Registration and transcripts—general. Rescinded ARC 5946C, IAB 10/6/21, effective 11/10/21.

681—1.6(262) College-bound program.

1.6(1) Definitions.

“Accredited private institution” means an institution of higher education as defined in Iowa Code section 261.9(1).

“Commission” means the college aid commission.

“Financial need” means the difference between the student’s financial resources, including resources available from the student’s parents and the student, as determined by a completed parents’ financial statement and including any non-campus-administered federal or state grants and scholarships, and the student’s estimated expenses while attending the institution. A student shall accept all available federal and state grants and scholarships before being considered eligible for grants under the Iowa minority academic grants for economic success program. Financial need shall be reconsidered on at least an annual basis.

“*Full-time student*” means an individual who is enrolled at an accredited private institution or board of regents university for at least 12 semester hours or the trimester or quarter equivalent.

“*Minority person*” means an individual who is black, Hispanic, Asian, or a Pacific Islander, American Indian, or an Alaskan Native American.

“*Part-time student*” means an individual who is enrolled at an accredited private institution or board of regents university in a course of study including at least three semester hours or the trimester or quarter equivalent of three semester hours.

“*Program*” means the Iowa minority academic grants for economic success program established in this division.

1.6(2) *Policy on college-bound program.*

a. The regent institutions will cooperate with other state and local agencies, including the department of education, the college aid commission, and educational institutions in implementing the college-bound program to provide Iowa minority students with information and experiences relating to opportunities offered at the regents’ universities.

b. The universities will develop programs for elementary, middle and secondary school students and their families in the following areas:

- (1) Encouragement to consider attending a postsecondary institution;
- (2) Enrichment and academic preparation;
- (3) Information about how to apply for admission.

c. College-bound program vouchers will be awarded to students on the basis of the participation of the student and the student’s family in the college-bound program. One voucher will be awarded for participation in each college-bound program sponsored by a university.

(1) Each university will maintain records concerning those students who participate in the college-bound program, according to its established policies and procedures. The records will include information on those students who have received college-bound program vouchers which are described in Iowa Code section 262.92(2). The University of Iowa will maintain a central record on all students who have received college-bound program vouchers on behalf of all regent institutions and will make appropriate information available to the college aid commission.

(2) College-bound program vouchers may be used by students enrolled at a regent institution or at a private college or university in Iowa.

(3) A student holding vouchers and enrolling at a regent institution will receive priority in the award of funds under the Iowa minority academic grants for economic success (IMAGES) program. Awards under the IMAGES program are made on the basis of financial need. A student may be eligible for an additional award from the institution in which the student is enrolled.

(4) A student holding vouchers and enrolling at a private college or university in Iowa will receive priority in the award of funds under the Iowa minority academic grants for economic success program as provided by the rules of the college aid commission.

(5) The presidents, or their designees, will administer and coordinate the college-bound program at the universities. As part of the coordination, they will establish liaison with the appropriate state and local agencies, serve as the university contact and promote collaborative efforts among the regent universities and other appropriate agencies and institutions. Annual reports to the board of regents shall be prepared by each regent university. The reports shall contain relevant information as to the accomplishments of the program in the past year and a plan of action with goals and objectives for the forthcoming year. Reports shall be submitted to the board of regents on December 1 of each year.

This rule is intended to implement Iowa Code section 262.92.

[ARC 5946C, IAB 10/6/21, effective 11/10/21; ARC 6304C, IAB 5/4/22, effective 6/8/22]

681—1.7(262) Application fees. Mandatory application fees for admission to the University of Iowa, Iowa State University and the University of Northern Iowa shall be approved by the board of regents and shall be based on reasonable costs anticipated to be incurred by the institution in processing the application, unless otherwise approved by the board of regents.

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CHAPTER 2
SUPPLEMENTAL SPECIFIC RULES FOR EACH INSTITUTION
[Prior to 4/20/88, Regents, Board of[720]]
Rescinded **ARC 5946C**, IAB 10/6/21, effective 11/10/21

CHAPTER 3
REGENTS HUMAN RESOURCES MANAGEMENT—MERIT SYSTEM RULES

[Prior to 4/20/88, Regents, Board of[720]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

ORGANIZATION AND ADMINISTRATION

681—3.1(8A) Creation and purpose. The purpose of these rules is to give effect to the provisions of Iowa Code chapter 8A, subchapter IV, related to merit staff employment to establish an efficient, effective and uniform system of 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.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

681—3.2(8A) Covered employees. All merit staff employees of the board of regents 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.

[ARC 9812B, IAB 10/19/11, effective 11/23/11; ARC 4850C, IAB 1/1/20, effective 2/5/20]

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 chapter 8A, subchapter IV, related to merit staff employment and 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 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 consistent with the provision of these rules.

3.3(1) Records and reports. The resident directors will maintain appropriate documentation on each employee that will include a record of all personnel transactions affecting the individual's employment. The resident directors will also maintain records on operations conducted under these rules and will periodically as requested 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 opinions or affiliations, 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 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 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.

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681—3.4 to 3.13 Reserved.

DEFINITIONS

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 within the pay grade which is greater than the minimum rate of the pay grade for a specific 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 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.

“*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 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 assign a position to an appropriate classification on the basis of the duties and responsibilities assigned and to be performed.

“*Days*” means 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 classification.

“*Eligibility register*” consists of the names of the applicants 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 classification to a different position in the same classification or 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.

“*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-month or less, full-time or part-time, temporary or permanent, 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, promotion, voluntary demotion out of series or lateral transfer out of classification. Employees hired on term appointments, as defined by rule 681—3.85(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 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.

“*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 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 classification title for such appropriate 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.

“*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.

“*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.

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681—3.15 to 3.24 Reserved.

CLASSIFICATION

681—3.25(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 of regents, shall develop and maintain a classification plan so that all positions that are substantially similar and comparable in regard to the kind and difficulty of work and the level of responsibility are included in the same class, so that the same minimum qualifications are required for all positions in the same class (except as provided in 3.69(2)), so that the same pay schedule may be equitably applied (except for geographical differences) to all positions in the class. For each class the plan will include a class title, a definition of the job, examples of the kind of work performed, statements of knowledges, skills and abilities, and the minimum qualifications for the class.

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 changes to existing classifications. Employing departments and employees may appeal classification and reclassification in accordance with 681—3.127(8A).

The merit system director, in consultation with the resident directors and subject to the approval of the board of regents, may establish new classifications and change or abolish existing 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 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, classification series, or group of 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). 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 sections 8A.412(5) and 8A.413.

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681—3.27 to 3.36 Reserved.

COMPENSATION PLAN

681—3.37(8A) Preparation, content and adoption of the pay plan. The board of regents will adopt a pay plan for all the classes established in the classification plan. The pay plan will consist of a schedule or schedules of numbered grades with minimums and maximums for each grade. Each class will be assigned to a pay grade. The plan will be developed to reflect the relative difficulty and responsibility of the work involved in the various classes, what is paid for similar work by other employers in the pertinent labor market, and the availability of funds with due regard to the results of a collective bargaining agreement negotiated under the provisions of Iowa Code chapter 20. The plan will be uniformly applicable to all regents institutions except for variances approved on the basis of geographical differences.

681—3.38(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 of regents in the same manner and following the same procedure stated in 681—3.37(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 of regents and other authority as required by law.

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 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 and such pay will constitute the total cash remuneration the employee receives for the employee's work in that position. 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.

3.39(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 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 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 classification at a rate higher than the minimum. 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. Employees 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, provided that the pay of all other employees in the same classification with similar qualifications working under the same conditions as defined in 3.104(4) "h" at the same institution are raised to that higher rate. These appointments along with any salary adjustments required of other employees other than the appointee must 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. In the event that a substantial inequity is created due to a change to a merit review date, the resident director may determine that no change should be made to the merit review date or that an alternate merit review date should be established.

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 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. 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. 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 be informed of such action by a written statement from their employing department which specifies the reason(s) for the action. 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 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.

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 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 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. The resident director may request an extension be approved by the merit system director due to special 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) *Pay on reinstatement, reemployment 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. An employee who is returned to a merit system position from a professional position will be paid in accordance with subrule 3.39(4), pay on demotion. The date of reinstatement will be the merit review date.

b. An employee who is reemployed 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. When a merit increase has been granted to an employee in a position taken through voluntary demotion in lieu of layoff and the merit increase results in a higher rate of pay than last paid to the employee prior to the voluntary demotion in lieu of layoff, the employee may be reemployed to the previously occupied class with the higher rate of pay. Reemployment to the previously occupied class from a position taken as a voluntary demotion in lieu of layoff will not be considered a promotion. The merit review date will not change as a result of the voluntary demotion in lieu of layoff, nor as a result of reemployment to the previously occupied class from a position taken as a voluntary demotion in lieu of layoff.

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 reemployment as provided above.

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

- a.* 3.39(3) Pay on promotion if assigned to a classification having a higher pay grade;
- b.* 3.39(7) Pay on 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.

3.39(7) *Pay on lateral transfer.*

a. Employees who are transferred from one position to another position in the same 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 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 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. 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 classification with a higher advanced starting rate to a position in a 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) *Pay upon change in pay grade of class.* If the class is revised and reassigned to a higher pay grade, subrule 3.39(3), pay on promotion, will apply.

If the class is revised and reassigned to a lower pay grade, subrule 3.39(4), pay on demotion, will apply.

3.39(9) *Pay for part-time employment.* Pay for part-time employment will be proportionately equivalent to the rate for full-time employment.

3.39(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 salary rate. 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.

3.39(11) *Pay for call back.* Employees who are called back to work after completing their regular work schedule will be paid for a minimum period of three hours, regardless of the time worked. Employees who are called back and work in excess of three hours will be paid the actual time worked.

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, 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 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 by half of the annual increase every six months from the first step of the schedule to the entrance rate established for the journey 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 by applicable federal law.

3.39(15) *Discretionary pay increases for permanent employees.* 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.

3.39(16) *Payment of a shift differential.* All employees will be paid a shift 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.

3.39(17) *Pay for time on-call.* At the request of the employer, employees who are off duty and free to engage in their own pursuits shall be considered on-call, provided (a) that they leave word with the employer where to be reached if needed, and (b) that they are 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.

3.39(18) *Pay on reclassification of position.* If a position is reclassified, the incumbent's pay will be fixed in accordance with the rules governing pay on demotion, reemployment, transfer, or promotion, whichever is applicable.

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.

3.39(20) *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 executive 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.

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

[ARC 3229C, IAB 8/2/17, effective 7/1/17; ARC 4850C, IAB 1/1/20, effective 2/5/20; ARC 5947C, IAB 10/6/21, effective 11/10/21]

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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.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

681—3.41 to 3.49 Reserved.

APPLICATION AND EXAMINATION

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.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

681—3.51(8A) Examinations. Examinations will be practical in nature, constructed to reveal the capacity to successfully perform the job for which the applicant is competing, and will be rated objectively.

681—3.52(8A) Character of examinations. Examinations may be written or oral and may include physical or performance tests, or any combination of these. Examinations may screen for such factors as education, experience, aptitude, knowledge, character, physical fitness, or other qualifications or attributes which enter into the determination of the relative fitness of applicants. The examination process must be approved by each institution's resident director.

Persons with disabilities may request specific examination accommodations. Reasonable accommodations will be granted in accordance with policies established by the institution.

Veterans preference shall be applied as provided by law.

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.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

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.
[ARC 4850C, IAB 1/1/20, effective 2/5/20]

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

1. Does not meet the minimum required qualifications for the classification;
2. Is unable to perform the essential functions of the position with or without a reasonable accommodation;
3. Has violated federal or state law or regulations that affect the ability to perform the job;
4. Has unauthorized access to examination information;
5. Has failed to appear for examination or participate in any aspect of the selection process;
6. Has 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;
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 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. 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.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

681—3.56 to 3.66 Reserved.

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CERTIFICATION AND SELECTION

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

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(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.

Employment lists will include the names of all applicants for the position posted who meet the qualifications for a classification.

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 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 appointment 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 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.

3.67(2) *Duration of eligibility lists.* 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.* Recall lists will supersede employment lists.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

681—3.68(8A) 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 classification of the position to be filled, the number of vacancies and the date of need.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

681—3.69(8A) Certification from eligibility lists. Rescinded ARC 4850C, IAB 1/1/20, effective 2/5/20.

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.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

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681—3.71 to 3.80 Reserved.

APPOINTMENTS AND PROBATION

681—3.81(8A) Appointments. All appointments under this system will be made in accordance with all the provisions of these rules including those concerning certification and selection unless otherwise specified and no appointment shall be made without the prior approval of the resident director.

681—3.82(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 780 hours in any fiscal year.

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

681—3.83 Reserved.

681—3.84(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 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.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

681—3.85(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 one year. Renewals beyond one year 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 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 section 8A.413(9).

[ARC 4850C, IAB 1/1/20, effective 2/5/20; ARC 5947C, IAB 10/6/21, effective 11/10/21]

681—3.86 Reserved.

681—3.87(8A) Permanent appointments. An applicant who is 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.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

681—3.88 Reserved.

681—3.89(8A) Reinstatement. Rescinded ARC 4850C, IAB 1/1/20, effective 2/5/20.

681—3.90(8A) Probationary period.

3.90(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 employee's work, to

train and aid the employees in adjustment to their position, and to reject and dismiss any employee whose performance fails to meet standards.

3.90(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 appointed. 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.

Permanent employees who are promoted from one class to another, or who transfer out of class, or who demote will serve a period of probation of six months in the position to which 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.

3.90(3) *Dismissal during promotional probation.* Employees who are promoted from one classification to another or who transfer out of classification or who demote out of classification series and are dismissed during their probationary period may be placed on the 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.

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681—3.91 to 3.100 Reserved.

PROMOTIONS, DEMOTIONS, TRANSFERS AND TERMINATIONS

681—3.101(8A) Promotions. Vacancies will be filled by promotion of qualified permanent employees in accordance with these rules whenever practicable and feasible.

This rule is intended to implement Iowa Code sections 8A.402 and 8A.413.

681—3.102(8A) Transfers.

3.102(1) *Reassignments.* Employees 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 probationary employees who were certified to fill their position on the basis of special qualifications as provided in 3.69(2) will not be reassigned unless the new position requires the same special qualifications which justified the original certification.

3.102(2) *Special assignment.* When the services of employees are temporarily needed in a position in the same or a different class within the institution other than the position to which the employees are assigned, they may be given 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

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 special assignment in accordance with 3.39(6).

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

681—3.103(8A) Demotion (voluntary). If, for any reason, 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.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

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 14 days prior to the effective date of resignation, except in cases where the employing department agrees to a shorter period of notice. 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) Termination on expiration of appointment. On expiration of an appointment of limited duration the employing department will report such action in writing to the resident director.

3.104(3) Retirement. Employees who retire will be considered to have terminated in good standing and without prejudice and will have no rights of appeal under these rules.

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, 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 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.

c. The 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(s) may accept layoff with recall priority as provided in 3.104(4) "o." If an individual(s) directly affected does not accept layoff, the reduction in force procedures in this subrule shall be implemented.

d. Reduction in force will be made by 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 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 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.

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 classification.

k. 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.

l. An affected employee may appeal a reduction in force by filing, within 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 fewer retention points than a supervisory employee.

n. 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 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 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 classification in lieu of layoff may, at their request, initiate recall priority for the classification from which they were laid off, a lower classification(s) in the same series from which they were laid off, and a classification(s) formerly occupied in accordance with 681—3.67(8A), 681—3.68(8A), and 681—3.70(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.

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.

q. 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) *Termination for failure to meet job requirements.* 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.

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681—3.105 to 3.114 Reserved.

DISCIPLINARY ACTIONS

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 section 8A.413(16), or as established by board of regents or institutional policies.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

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. 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, 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 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. An employing department 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 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 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. An employing department may, for cause in accordance with 681—3.115(8A), 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 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) Discharge. A department head may, for cause in accordance with 681—3.115(8A), 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 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(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.

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681—3.117 to 3.126 Reserved.

GRIEVANCES AND APPEALS

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 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 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 section 8A.413.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

681—3.128(8A) Appeals on application, examination and certification procedures. Applicants may appeal an action concerning the form or content of the application or an examination. The applicant will first discuss the matter with the resident director and, if not satisfied with the explanation and decision given, may within 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). An appeal under this rule is not arbitrable beyond Step 3, or at a comparable step.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

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 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 14 days after the occurrence of the matter leading to the grievance or within 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 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 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 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 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 14 days after receiving the appeal.

Step 4. Employees not satisfied with the decision rendered under Step 3 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 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) *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 681—3.129(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. Such an 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, 681—3.129(8A) will apply.

3.129(2) *Appeals.* The board of regents 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 public employment relations 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 of regents within the prescribed time.

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681—3.130 to 3.139 Reserved.

VACATIONS AND LEAVES OF ABSENCE

681—3.140(8A) Attendance. Employing departments will establish work schedules and other regulations regarding attendance that they deem necessary in accordance with these rules and the policy and rules of their institution, and such schedules and rules will be made known to affected employees.

681—3.141(8A) Vacations. Permanent and probationary employees will accrue and take vacations as provided by law. Employees will be entitled to take only that vacation time which they have accrued and while employee preferences will be given major consideration, employing departments will have final authority to schedule vacations.

Permanent and probationary part-time employees will accrue vacation in an amount equivalent to their fractional employment. An employee who is transferred, promoted or demoted from one position to another position under this system will not lose any accumulated vacation time as a result thereof.

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.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

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 given recall priority consistent with 3.104(4), effective with the date the employee was released to return to work.

[ARC 9812B, IAB 10/19/11, effective 11/23/11; ARC 4850C, IAB 1/1/20, effective 2/5/20]

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 workdays in a calendar year.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

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.

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

681—3.146(8A) Court and jury service. When, in obedience to the subpoena or direction by proper authority, employees appear as witnesses or serve as members of juries in any public or private litigation, they will be entitled to their regular compensation provided they surrender to their employing institution any pay they receive, other than reimbursement for travel or personal expenses, for such service.

681—3.147(8A) Voting leave. If an employee's working hours do not allow a three-hour period outside of working hours during which the polls are open, any person entitled to vote in a public election is entitled to time off from work with pay on any public election day for a period not to exceed three hours in length. Application for time off for voting should be made to the employee's supervisor prior to election day. The time to be taken off may be designated by the supervisor.

681—3.148(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. Employees 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.

[ARC 9812B, IAB 10/19/11, effective 11/23/11]

681—3.149(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, employees, if qualified, will be returned to the position from which they were 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.

681—3.150(8A) Election leave. Employees who become candidates for public office will be granted election leaves as provided by law.

681—3.151(8A) 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 sections 8A.413 and 262.9(2).

[ARC 4850C, IAB 1/1/20, effective 2/5/20]

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.

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CHAPTER 4
TRAFFIC AND PARKING AT UNIVERSITIES

[Prior to 4/20/88, Regents, Board of[720]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

681—4.1(262) Purpose. The purpose of these rules is to provide for the policing, control and regulation of traffic and of parking vehicles on the campuses of the state University of Iowa, Iowa State University and the University of Northern Iowa.

[ARC 5948C, IAB 10/6/21, effective 11/10/21]

681—4.2(262) Definitions. For the purpose of these rules, the following definitions shall apply unless the context clearly requires otherwise, and all other words shall have meaning according to their common usage.

“Appointed authority” means the person or entity designated by the president of a university to perform any function or duty required or permitted hereunder.

“Bicycle” means any vehicle having two or three wheels and fully operable pedals that is a traditional bicycle designed solely to be pedaled by the rider. An electric/battery-powered bicycle designed not only to be pedaled by the rider but also propelled by an electric motor of less than 750 watts (one horsepower) may be treated as a bicycle and may be parked at bicycle racks.

“Campus” means all property under the control of a university.

“Employee” means any person regularly employed by a university who is not a student.

“Guest” means any person other than a person living at the designated residence hall.

“Handrail” means any railing intended to provide physical support to a pedestrian.

“Immobilization” of a bicycle consists of restricting the bicycle’s use by detaining it at the point of infraction with a university locking device.

“Impoundment” of a bicycle consists of removing the owner’s locking device, transporting the bicycle to a university facility, and detaining it with a university locking device.

“In-line skates” means any frame or shoe with a single row of wheels that is used for gliding or skating. In-line skates are also known as roller blades.

“Motorcycle” or *“moped”* or *“motorized bicycle”* means any vehicle that is self-propelled, has fewer than four wheels in contact with the ground, and is not a bicycle or an electric bicycle. For purposes of these rules, a moped or motorized bicycle is considered a motorcycle.

“Motor vehicle” means any vehicle that is self-propelled and has four or more wheels in contact with the ground.

“Roller skates” means any frame or shoe with a pair of small wheels near the heel and near the toe that is used for gliding or skating.

“Skateboard” means any board or platform with attached wheels used for individual transportation. For purposes of these rules, a nonmotorized scooter (a board with a handle) is considered a skateboard.

“Street furniture” is any structure or accessory in a university pedestrian area or slow zone designed for the benefit of pedestrians. This includes, but is not limited to, benches, tables, lampposts, and trash receptacles.

“Student” means any person registered with the university for academic credit who is not employed by the university on a full-time salaried or equivalent basis.

“University,” unless specifically indicated herein, means the state University of Iowa, Iowa State University or the University of Northern Iowa.

“Vehicle” means any wheeled or treaded device used or designed for use as a means of transportation or conveyance of persons or property.

“Visitor” means any person who owns, operates or parks a vehicle on the university campus who is not a student or an employee.

[ARC 5948C, IAB 10/6/21, effective 11/10/21]

681—4.3(262) General traffic.

4.3(1) The appointed authority shall establish rules governing traffic violations and the safe operation of all vehicles, including motor vehicles, motorcycles, skateboards, in-line skates, roller skates and bicycles, on institutional roads and property as the director deems necessary. Such traffic rules shall be available for inspection during business hours at the office of the appointed authority and the board of regents. Traffic violations may also be charged and prosecuted as violations of Iowa Code chapter 321 and section 262.68. All state of Iowa motor vehicle laws are in effect on campus.

4.3(2) The appointed authority shall erect speed limit signs in conformity with maps of the institutional roads and property of the university designating such speed limits as adopted by the board of regents. The maps will be available for inspection during business hours at the office of the appointed authority and the board of regents.

4.3(3) The appointed authority is delegated authority to make temporary changes in traffic patterns, including establishment of one-way roads and road closures, where necessary because of construction or special events being held on campus.

4.3(4) The appointed authority is delegated authority to erect traffic control signs and devices, and to designate pedestrian crosswalks and bicycle lanes, as well as no bicycling and no skateboard, in-line skating and roller skating areas; bicycle dismount zones and pedestrian-only areas. All vehicle operators must obey all signs directing traffic flow on campus.

4.3(5) Pedestrians shall be given the right-of-way at all crosswalks or when in compliance with existing traffic controls.

4.3(6) Driving of vehicles, motor vehicles, and motorcycles on university property other than roads is prohibited, unless specific areas have been designated for such use by the appointed authority or special permission has been granted by the appointed authority for emergency conditions.

4.3(7) Driving of vehicles, motor vehicles, and motorcycles on parts of institutional roads marked as bicycle lanes or on designated bicycle paths is prohibited.

4.3(8) The appointed authority is delegated authority to have the university public safety department investigate accidents which occur on university property.

4.3(9) Every person riding a bicycle on a street or highway on campus is granted all the privileges and is subject to all the regulations applicable to a driver of any motor vehicle on that street or highway and to the special regulations of this subrule.

a. A bicycle rider on campus must:

(1) Obey the instructions of official traffic control devices, signs and signals applicable to motor vehicles, unless otherwise directed by a peace officer or other authorized traffic director;

(2) Obey the direction of any sign whenever authorized signs are erected indicating that no right, left or U-turn is permitted;

(3) Obey the regulations applicable to pedestrians when the bicycle rider dismounts from the bicycle;

(4) Yield the right-of-way to all vehicles approaching on a street whenever a rider is on a separate bicycle path that intersects the street;

(5) Not use campus sidewalks except those specifically designated as bicycle paths;

(6) Yield the right-of-way to any pedestrian in a designated crosswalk;

(7) Not ride on lawns.

b. This subrule does not apply to peace officers of the university's department of public safety while they are acting within the scope of their regularly assigned duties.

4.3(10) Roller skates, roller blades and skateboards are permitted on campus sidewalks. Roller skates, roller blades and skateboards are not permitted on or in university structures or buildings; on stairways, sub-walks, elevated sidewalks, access ramps, steps, retaining walls, handrails or other architectural elements; on or in planting, grass or seeded areas; or where otherwise prohibited by sign, peace officer or other authorized traffic director. Any person on roller skates, roller blades or a skateboard must yield the right-of-way to any wheelchair or other mobility assistance device for the disabled, pedestrian or bicycle.

[ARC 5948C, IAB 10/6/21, effective 11/10/21]

681—4.4(262) Registration. Motor vehicles and motorcycles shall be registered as follows:

4.4(1) *Students.* Any student who operates, maintains or owns a motor vehicle or motorcycle on university property is responsible for the proper registration of the vehicle and the display of the university registration identification thereon. Every motor vehicle and motorcycle which is operated or maintained by a student on campus must be registered with the university, and a registration identification must be displayed on the vehicle in the manner prescribed by the appointed authority. A student must register the vehicle within 48 hours of initial operation of the vehicle on campus.

4.4(2) *Employees.* Motor vehicles and motorcycles owned or operated by employees may be registered with the university if the employee so desires, but registration of such vehicles is not required unless the employee desires parking privileges on the campus. A registration identification may be issued for display on vehicles registered by employees.

4.4(3) *Visitors.* Vehicles owned or operated by visitors may be registered with the university if the visitor so desires, but registration of these vehicles is not required unless the visitor desires parking privileges on campus or the visitor needs temporary or extended access to parking lots. A registration identification shall be displayed on vehicles registered by visitors in the manner prescribed by the university.

4.4(4) *Procedure.* Applications for registration shall be submitted to the appointed authority in the manner the appointed authority prescribes. No student shall register any vehicle owned or actually maintained by another student. No fee shall be charged for registration without parking privileges.

4.4(5) *Bicycles.* Each university may prescribe additional policies regarding the registration of bicycles.

[ARC 5948C, IAB 10/6/21, effective 11/10/21]

681—4.5(262) *Parking facilities.* The university may set aside and designate certain areas of the campus for the parking of motor vehicles, motorcycles, and bicycles, and the use of any lot, ramp, or part of the parking facilities so established may be restricted to students, employees, or visitors. The appointed authority shall cause signs to be erected and maintained clearly identifying those areas of the university campus designated for vehicle parking, and any restrictions applicable thereto shall be conspicuously posted.

4.5(1) *Parking control devices.* Gates and other devices may be installed and maintained to control access to any parking facility.

4.5(2) *Parking meters.* Parking meters, toll houses, and other devices may be installed and maintained to regulate the use of any parking facility.

4.5(3) *Hours of operation.* Reasonable hours shall be established by the university for the normal operation of the parking facilities, and a schedule of hours of operation shall be published and available for public inspection in the office of the appointed authority.

4.5(4) *Closing.* The appointed authority may temporarily close any parking facility for cleaning, maintenance or other university purpose, or may temporarily restrict or reassign the use of any facility as may be necessary or convenient. The appointed authority shall give advance notice of such temporary closing, restriction, or reassignment by posting or otherwise when practical. No parking fees will be refunded during the temporary closing of a parking facility.

4.5(5) *Restricted areas.* The appointed authority is delegated authority to restrict access to campus streets, parking lots and other facilities by means of gates or other barriers. Streets or portions of streets may be closed to vehicle traffic or limited to specific vehicles. Access to restricted areas is limited to established gate openings or designated entrances, and no other means of access is permitted. Moving or driving around authorized barriers is prohibited.

4.5(6) *Restricted zones.* The appointed authority may designate areas of the campus as restricted zones, such as loading zones or service vehicle zones, and such restricted zones shall be conspicuously posted. No parking shall be permitted in such restricted zones except as authorized.

4.5(7) *No parking.* Motor vehicle and motorcycle parking on the campus shall be restricted to designated parking facilities, and no parking for motor vehicles and motorcycles shall be permitted at any other place on the campus.

a. Vehicles shall not be parked in such a manner as to block or obstruct sidewalks, crosswalks, driveways, roadways, or designated parking stalls.

b. No parking is permitted in prohibited zones, such as in the vicinity of fire hydrants or fire lanes, and such zones shall be conspicuously posted or marked by painted curbs or other standard means.

c. No parking is permitted on grass or other vegetation or in pedestrian areas.

d. Motor vehicles are not allowed in university buildings except:

- (1) Where a shop or garage is designated as a vehicle repair or storage area;
- (2) Where there is a designated vehicle loading area; or
- (3) Where there is a parking ramp or deck.

e. Improper parking is parking in any place on campus other than those areas designated for parking.

f. Improper parking is parking incorrectly in designated parking areas. Improper parking includes, but is not limited to:

- (1) Parking in an area restricted by signs;
- (2) Parking without an appropriate permit;
- (3) Parking in an area designated for persons with disabilities;
- (4) Parking in a loading zone over the time limit; and
- (5) Parking over a stall marker line.

4.5(8) Motorcycle and moped parking. The appointed authority may designate areas of the parking facilities for motorcycle parking, and such areas shall be conspicuously posted. Motorcycles shall be parked only in areas designated for motorcycle parking, and no other vehicles shall be parked in such areas. The university may require that a parking permit be displayed on all motorcycles and mopeds.

4.5(9) Bicycle parking. The appointed authority may install and maintain bicycle parking racks or designate other facilities for bicycle parking. Bicycles shall be parked only in bicycle racks or other facilities designated for bicycle parking. Improperly or illegally parked and abandoned bicycles may be impounded. Locking devices may be cut and removed when necessary. Bicycles may not be taken inside university buildings except as approved by the appointed authority.

4.5(10) Violations. Bicycles attached to, or rested against, trees, shrubs, handrails, or handicapped parking meters, or limiting access to, or use of, any university facility may be impounded, the owners fined, or both. Bicycles parked inside a university building that is not designated for bicycle parking may be impounded or the owners fined, or both. Bicycles bearing proper registration decals that are attached to, or rested against, street furniture may be ticketed or immobilized and the owners fined. If the bicycles interfere with the use of the furniture, they may be impounded. Bicycles considered abandoned may be labeled for impending impoundment by placing impoundment tags on the bicycles. If the bicycles display the proper registration decals, an attempt will be made to contact the owners to remove the bicycles. If the bicycles do not display the proper registration decals, the owners have two weeks to contact the parking and transportation office from the time the bicycles are tagged until the bicycles may be impounded.

[ARC 5948C, IAB 10/6/21, effective 11/10/21]

681—4.6(262) Parking privileges. Students and employees may be granted parking privileges on the campus in accordance with these rules and upon such other reasonable terms and conditions as may be established by the university.

4.6(1) Students. Students may be granted parking privileges in parking facilities designated for student use. Optional plans and facilities may be offered as determined by the appointed authority. Reasonable classifications may be established on the basis of a student's age, class, college or department, course load, proximity of the student's residence to the campus, physical disability, employment, the availability of facilities, or any other relevant criterion to determine the eligibility of students for parking privileges or any optional plan or facility.

4.6(2) Employees. Employees may be granted parking privileges in parking facilities designated for employee use. Optional plans and facilities may be offered as determined by the appointed authority. Reasonable classifications may be established on the basis of an employee's job classification, length of service, place of work or the nature thereof, or physical disability; the availability of facilities; or any other relevant criterion to determine the priority of employees for assignment of parking privileges or any optional plan or facility.

4.6(3) Visitors. Visitors may be granted parking privileges in parking facilities designated for visitor parking. Optional plans and facilities may be offered as determined by the appointed authority. Reasonable

classifications may be established on the basis of the time, duration or purpose of the visit; physical disability; the availability of facilities; or any other relevant criterion to determine the eligibility of visitors for parking privileges or any optional plan or facility.

4.6(4) *Persons with disabilities.* Persons with disabilities will be granted parking privileges in parking facilities designated for use by persons with disabilities.

4.6(5) *Procedure.* Applications for parking privileges shall be submitted to the appointed authority in the manner the appointed authority prescribes. No student shall apply for parking privileges for any vehicle owned or actually maintained by another student. The appointed authority shall determine the eligibility and priority of each applicant for parking privileges within the classifications established in subrules 4.6(1), 4.6(2) and 4.6(3) and shall make all parking assignments. A parking permit or other means of identification may be issued to each applicant who is granted parking privileges, and such permit or other identification must be displayed on the vehicle in the manner prescribed by the appointed authority. Parking permits are not transferable. Parking privileges shall not be granted to a student and to an employee or visitor for the same vehicle, and a student parking permit and an employee or visitor parking permit shall not be displayed on the same vehicle. The unauthorized possession, use, alteration, forging or counterfeiting of a parking permit, or any portion thereof, is prohibited. The appointed authority shall adopt a procedure to replace lost, stolen and destroyed parking permits and controlled access entry cards.

4.6(6) *Parking fees.* The university may assess and collect from students, employees, and visitors reasonable fees or charges for parking privileges and the use of parking facilities. The amount of such fees and charges shall be established by the university and approved by the board of regents, and a schedule of all parking fees and charges shall be published and available for inspection during normal business hours in the office of the appointed authority and in the office of the board of regents. Parking fees and charges may be assessed and collected on an annual, semester, monthly, or hourly basis. Parking fees and charges may be added to student tuition bills and may by agreement be withheld from the salaries or wages of employees by payroll deduction. Parking fees and charges may be collected by means of parking meters or toll houses. Use of any parking facility constitutes an implied agreement to pay the prescribed fee or charge therefor.

4.6(7) *University business.* Special parking privileges may be granted for vehicles being used on official university business on the conditions and in the manner prescribed by the appointed authority.

4.6(8) *Responsibility.* Any person who maintains, owns or operates a vehicle that is parked on the campus or in whose name the vehicle is registered or to whom parking privileges have been granted is responsible for the proper parking of the vehicle at all times when it is on the campus and for all parking violations involving the vehicle.

4.6(9) *Liability.* Parking privileges granted hereunder constitute a license to use university parking facilities and do not constitute a lease of such facilities or a bailment of the vehicle by the university. Use of university parking facilities is at the owner's or applicant's risk, and the university shall not be liable or responsible for loss of or damage to any vehicle parked on the campus.

4.6(10) *Revocation.* Parking privileges on the campus may be revoked by the university for good cause at any time upon five days' written notice and refund of any advance payment of parking fees or charges on a pro rata basis for the revoked period.

[ARC 5948C, IAB 10/6/21, effective 11/10/21]

681—4.7(262) Violations. Sanctions may be imposed for violation of traffic, registration and parking rules as follows:

4.7(1) *Notice of violations.* The university shall give written notice of all parking violations. Such notice may be given by means of a notice of parking violation placed conspicuously on the offending vehicle or provided in an alternative manner as determined by the appointed authority, and such notice shall constitute constructive notice of the violation to the owner and operator of the vehicle and to any person in whose name the vehicle is registered or parking privileges have been granted.

4.7(2) *Sanctions.* Reasonable monetary sanctions may be imposed upon students, employees, and visitors for violation of university traffic, vehicle registration or parking rules. The amount of such sanctions shall be established by the university and approved by the board of regents, except sanctions established by statute will be imposed at the current statutory amount. A schedule of all sanctions for traffic

violations, improper registration and parking shall be published and available for public inspection during normal business hours in the office of the appointed authority and in the office of the board of regents. Traffic, registration, and parking sanctions may be assessed against the owner or operator of the vehicle involved in each violation or against any person in whose name the vehicle is registered or parking privileges have been granted and charged to the person's university account. Registration and parking sanctions may be added to student tuition bills or may be deducted from student deposits or from the salaries or wages of employees or from other funds in the possession of the university.

4.7(3) *Impoundment and immobilization.* Any vehicle parked on the campus in violation of parking rules may be impounded, removed or immobilized. The university shall give written notice of impoundment to the owner of the vehicle or to the person in whose name the vehicle is registered or parking privileges have been granted or notice may be provided in an alternative manner as determined by the appointed authority. A reasonable fee may be charged for the cost of impoundment and storage, which fee must be paid prior to the release of the vehicle by the university or by contract with private operators. Impounded vehicles that are not claimed within 60 days will be deemed abandoned property and may be sold under procedures set forth in Iowa Code chapter 579, and the proceeds of the sale will be applied to the payment of the costs of impoundment, storage and sale. The balance, if any, shall be sent to the owner.

a. Immobilization. Immobilized bicycles bearing proper registration permits may be claimed by proving ownership and payment of immobilization fees and any fines. Immobilized bicycles not bearing proper registration permits may be claimed by proving ownership, registering the bicycle under a valid name and address, and paying the appropriate fines and immobilization fees. Immobilization fees for first-time offenders may be waived after immobilized bicycles have been registered. Immobilized bicycles not reclaimed after two working days may be impounded.

b. Impoundment. Impounded bicycles bearing proper registration permits may be claimed by proving ownership and paying the impoundment fees and any fines. Impounded bicycles not bearing proper registration permits may be claimed by proving ownership, registering the bicycles under a valid name and address, and paying the appropriate fines and impoundment fees. Impoundment fees for first-time offenders may be waived after impounded bicycles have been registered. All impounded bicycles will be held for 60 days, during which time they may be claimed by the owners upon payment of all outstanding fines and charges. After 60 days, all unclaimed impounded bicycles will be deemed abandoned property and sold pursuant to Iowa law, and the proceeds applied to the costs of impoundment, storage and sale. The balance, if any, shall be sent to the owner, if known.

4.7(4) *Administrative hearing.* Students and employees may request a hearing and administrative ruling concerning a controversy, based on the imposition of a sanction for a registration or parking violation, or an impoundment procedure, by the appropriate university official or hearing body as set forth in university policy. Visitors may request the appointed authority to conduct a hearing and issue an administrative ruling in such cases.

4.7(5) *Judicial review.* Judicial review of an administrative ruling may be sought in an Iowa district court in accordance with the terms of the Iowa administrative procedure Act.

[ARC 5948C, IAB 10/6/21, effective 11/10/21]

681—4.8(262) Administration of rules. The president of the university shall be responsible for the proper administration of these rules. The president is authorized to establish traffic and parking procedures not inconsistent with these rules as may be reasonably necessary and convenient for the effective administration of presidential duties hereunder, and any procedure so established shall be published and available for public inspection during normal business hours in the office of the appointed authority and in the office of the board of regents. The president may delegate authority under these rules to the appointed authority or to any other person designated by the president to perform any function or duty hereunder.

[ARC 5948C, IAB 10/6/21, effective 11/10/21]

681—4.9(262) Effect of rules. These rules constitute a condition of registration as a student at the university and a condition of employment as an employee of the university. Registration as a student or acceptance of employment constitutes an acceptance of these rules and an agreement to pay all prescribed fees and monetary fines imposed in accordance with these rules.

[ARC 5948C, IAB 10/6/21, effective 11/10/21]

Rules 681—4.1(262) to 681—4.9(262) are intended to implement Iowa Code section 262.69.

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CHAPTER 5
STATE HYGIENIC LABORATORY

[Prior to 4/20/88, Regents, Board of(720)]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

GENERAL REGULATIONS

681—5.1(263) Scope of services.

5.1(1) *Scientific.* The laboratory provides analytical and reference services, surveillance information, disaster and terrorism response, population data, microbiological and chemical examinations and other investigations in the areas of disease, newborn and maternal screening, fieldwork and the assessment of environmental quality.

5.1(2) *Consultative.* The professional staff of the laboratory provide regulatory review, consultative assistance, and data interpretation and evaluation of environmental effects and scientific needs to persons, agencies, and organizations with interest or involvement in public and environmental health.

5.1(3) *Education and training.* As part of the laboratory's academic mission, staff of the laboratory provide education and training for professional colleagues, educators, students, citizens, policymakers and anyone interested in public and environmental health through appropriate educational methods including, but not limited to, workshops, seminars, and individualized instruction.

5.1(4) *Applied research.* The laboratory conducts scientific and management research designed to solve practical problems and to translate basic research to improve public and environmental health.

[ARC 9962B, IAB 1/11/12, effective 2/15/12]

681—5.2(263) Specimens examined.

5.2(1) *Classification.* This being the state public health and environmental laboratory, specimens submitted to it should have a direct or probable significance to public health, medical management, or the quality and preservation of the environment.

5.2(2) *Who may submit specimens.*

a. Licensed physicians, osteopathic physicians, and other licensed practitioners may submit specimens for the diagnosis and control of communicable or other diseases in which such tests are required by the state department of public health.

b. Veterinarians may submit specimens involving diseases of animals which are communicable to humans.

c. State department of public health may submit specimens necessary in the conduct of its fundamental responsibilities. Other programs, services, and studies may be negotiated on a contractual basis.

d. The natural resources department may submit specimens necessary in the conduct of its fundamental responsibilities relative to municipal water supplies. Other programs, services, and studies may be negotiated on a contractual basis.

e. Other state agencies, institutions, and municipalities may submit specimens, generally under a contractual arrangement if the submission is to be of a regular or routine nature.

f. Local departments of health may submit specimens when performing official functions of state regulatory agencies. The examination of other specimens necessary in the support of locally directed programs are provided only with prior clearance and cost negotiations.

g. Private individuals may submit specimens to address infectious disease or environmental concerns.

h. Privately owned industries and businesses may submit specimens for environmental studies by prior arrangement with the laboratory on a fee-based contractual basis.

i. Public schools may submit specimens at the discretion of the school nurse, consulting physician, principal, or upon recommendations of the local department of health.

j. Any agency, organization, business or individual impacted by a natural disaster may submit specimens that require biological or environmental testing to assure health and safety.

k. First responders, hazmat teams, the Radiological Emergency Response Team, the 71st Civil Support Team, the FBI, the United States Postal Service and any other officially recognized law enforcement or terrorism response agency may submit samples for identification and confirmation of potential weapons of mass destruction (WMD) according to the Iowa Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) Response Protocol.

[ARC 9962B, IAB 1/11/12, effective 2/15/12]

681—5.3(263) Charges.

5.3(1) Specimens for which the fee may be waived or deferred:

a. Specimens submitted relating to diseases communicable from human to human, from animals to human, provided such examinations are required by rules of the state department of public health.

b. Specimens submitted under statutory authority by state agencies or designees of state agencies which are involved in investigations or episodes challenging the health of the public or the quality of the environment. Expenses caused by emergency testing may be eligible for subsequent reimbursement.

c. Any specimen when there is probable cause that a direct threat to public health exists. Such tests may qualify for subsequent reimbursement.

d. Specimens submitted related to the confirmation or identification of potential weapons of mass destruction (WMD) according to the Iowa Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) Response Protocol.

5.3(2) Specimens for which fees are charged:

a. Specimens submitted under no statutory authority which are part of special investigations or surveillance programs and where there is no direct threat to the public health or environmental quality.

b. Specimens submitted for the submittor's private information, such as well water samples.

c. Specimens submitted by private concerns and municipalities which are considered to be product quality control measures and, therefore, a cost of doing business.

d. Specimens not covered by statute, by rules of the state department of health, by rules of the natural resources department or in this subrule may be examined and charged for at rates to be determined by the laboratory subject to any limitations imposed by law.

These rules are intended to implement Iowa Code chapter 263.

[ARC 9962B, IAB 1/11/12, effective 2/15/12]

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CHAPTER 6
UNIVERSITY OF IOWA HOSPITALS
[Prior to 4/20/88, Regents, Board of(720)]
Rescinded IAB 5/24/06, effective 6/28/06

CHAPTER 7
EQUAL EMPLOYMENT OPPORTUNITY

[Prior to 4/20/88, Regents, Board of (720)]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

681—7.1(262) Equal opportunity policy. It is the policy of the board of regents, hereinafter board, to provide equal opportunity in all aspects of regent operations to all persons without regard to race, creed, color, religion, sex, gender identity, sexual orientation, national origin, age, or status as a protected veteran, or disability except where it relates to a bona fide occupational qualification. The board of regents and all officials who are responsible to the board of regents shall take affirmative action in personnel administration to overcome the effects of past or present practices, policies, or other factors which serve as barriers to equal employment opportunity. Contractors doing business with the board of regents shall take affirmative action to ensure that all persons without regard to race, creed, color, religion, sex, gender identity, sexual orientation, national origin, age, or status as a protected veteran, or disability except where it relates to a bona fide occupational qualification above are effectively afforded equal employment opportunities. Institutions under the governance of the board of regents shall provide opportunities for minority and women businesses in the awarding of contracts through a procurement set-aside program as authorized by statute.

7.1(1) Definitions.

“Actively managed” in the above context means exercising the power to make policy decisions affecting the business.

“Affirmative action” means action appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity.

“Bona fide occupational qualification” means a qualification reasonably necessary to the normal function of a position in the operation of a particular business. The concept of the bona fide occupational qualification is narrow in scope and will not be applied to include the mere preference or convenience of the employer.

“Minority person” means an individual who is a Black, Hispanic, Asian or Pacific Islander, American Indian or Alaskan native.

“Operated” in the above context means being actively involved in the day-to-day management of the business.

“Protected classes” shall mean racial or ethnic minorities, and groups who are protected under federal and state laws because of their creed, color, religion, sex, national origin, age, or status as a veteran of the Vietnam era, or physical or mental disability.

“Small business” means any enterprise which is located in this state, which is operated for profit under a single management, and which has either fewer than 20 employees or an annual gross income of less than \$3,000,000 computed as the average of the three preceding fiscal years. This definition does not apply to any program or activity for which a definition for small business is provided for the program or activity by federal law or regulation or other state law.

“Targeted small business” means a small business which is 51 percent or more owned, operated, and actively managed by one or more women or minority persons.

7.1(2) Equal employment opportunity—administration. Rescinded IAB 10/6/21, effective 11/10/21.
[ARC 5949C, IAB 10/6/21, effective 11/10/21]

681—7.2(262) Equal employment opportunity.

7.2(1) Affirmative action. The board of regents and all officials who are responsible to the board of regents shall appoint, assign, and advance employees on the basis of merit and fitness. Each institution under the board of regents shall promulgate a clear and unambiguous written policy of nondiscrimination in employment and shall adopt an affirmative action program containing goals and time specifications in personnel administration. Each institution shall submit its annual affirmative action report to the board between December 15 and December 31 each year. The board shall submit its affirmative action report to the department of management by January 31 of each year.

7.2(2) Personnel administration.

a. Each institution and the board office shall regularly review its personnel practices and procedures with a view to correcting personnel practices and procedures which may contribute to discrimination in appointment, assignment, or advancement. Each institution shall conduct programs of job orientation and provide training and organizational structure for upward mobility and shall place emphasis upon fair practices in employment. Each institution shall also bar from all employment application forms any inquiry as to race, creed, color, religion, sex, gender identity, sexual orientation, national origin, age, or status as a protected veteran, or disability, except for statistical purposes, unless it relates to a bona fide occupational qualification. The employment practices of the board of regents shall be in strict conformity to the provisions of all federal and state laws, executive orders, and rules and regulations of the board of regents and of its institutions which pertain to equal employment opportunity and affirmative action.

b. The board of regents shall develop a procedure to permit appointment of appropriately certified disabled applicants pursuant to Iowa Code section 19B.2.

[ARC 5949C, IAB 10/6/21, effective 11/10/21]

681—7.3(262) Employment services. All officials responsible to the board of regents, who provide placement or referral services for public or private employers, shall refuse to fill any job order which violates federal and state laws, executive orders and rules and regulations of the board of regents and of its institutions which pertain to equal employment opportunity and affirmative action.

This rule is intended to implement
Executive Order number 15 of 1973

681—7.4(262) State educational, counseling, and training programs. All educational and vocational guidance programs and their essential components, counseling and testing and all on-the-job training programs for the employees of regent institutions and the board office shall be administered in accordance with the provisions of all federal and state laws, executive orders, and rules and regulations of the board of regents and of its institutions which pertain to equal employment opportunity and affirmative action. Every official responsible for the implementation of such programs shall be charged with the duty of seeking to provide equal opportunity for all, regardless of race, creed, color, religion, sex, gender identity, sexual orientation, national origin, age, or status as a protected veteran, or disability except where it relates to a bona fide occupational qualification.

This rule is intended to implement
Executive Order number 15 of 1973

[ARC 5949C, IAB 10/6/21, effective 11/10/21]

681—7.5(262) State services and facilities. Equal treatment shall be guaranteed by all institutions of the board of regents in providing their services to the public, and equal treatment shall be guaranteed in the use of their facilities. Those in charge of the various institutions shall take especial care that no institutional facility is used in the furtherance of any discriminatory practices.

681—7.6(262) Contract compliance.

7.6(1) Equal employment opportunity. The state board of regents and the institutions under its jurisdiction are responsible for the administration and promotion of equal opportunity in contracts and services and the prohibition of discriminatory and unfair practices within any program administered by institutions under the board of regents receiving or benefiting from state financial assistance in whole or in part. Every official responsible to the board of regents who is authorized to make contracts or subcontracts for construction or for goods or services shall cause to be inserted into every such contract or subcontract a clause in which the contractor or subcontractor is prohibited from engaging in discriminatory employment practices forbidden by federal and state laws, executive orders, and rules and regulations of the board of regents and of its institutions which pertain to equal employment opportunity and affirmative action. These

contractual provisions shall be fully enforced. Any breach of them shall be regarded as a material breach of contract.

a. Compliance shall be determined by an evaluation of a contractor's employment policies and practices and shall depend on an analysis of all relevant factors, including the following:

- (1) The contractor's publicly stated and posted policy regarding equal opportunity employment.
- (2) The contractor's external dealings with unions, employment agencies, newspapers, and other sources of employees.
- (3) The methods by which and places where the contractor seeks to recruit employees.
- (4) The contractor's use of tests and qualifications for positions which are job-related and not culturally biased.
- (5) Classification and compensation plans which apply equally to all employees.
- (6) Training programs which provide all persons including those in the protected classes with an equal opportunity to qualify for employment and advancement.
- (7) The contractor's active support of local and national community action programs.
- (8) The effectiveness of the contractor's affirmative action program as evidenced, in part, by the number or percentage of persons of the protected classes employed at all levels, taking into account the geographical locations of the contractor's work force.

b. The judgment regarding compliance shall be favorable if it is determined that the contractor is working affirmatively toward extending opportunities for members of the protected classes and is not discriminating against these persons. Contractors must be able to demonstrate that their affirmative action program is productive.

7.6(2) Procedures. Any individual aggrieved by a contractor's alleged noncompliance with the board of regents equal opportunity policy may file a complaint with the institutional office designated for receiving and investigating complaints of discrimination. Complaints shall be investigated in accordance with established institutional policies and procedures and shall take into consideration the compliance factors in subrule 7.6(1).

7.6(3) Bidding requirement. All construction specifications shall include, in the "instruction to bidders," the following paragraph: "Bidders shall file with each bid a completed board of regents equal employment opportunity data reporting form as included in the specifications or certify on the certificate of reporting that they have filed their annual equal employment opportunity data reporting form with the board of regents equal opportunity compliance office."

[ARC 5949C, IAB 10/6/21, effective 11/10/21]

681—7.7(73GA,ch315) Targeted small business. Rescinded **ARC 5949C**, IAB 10/6/21, effective 11/10/21.

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CHAPTER 8
PURCHASING

[Prior to 4/20/88, Regents, Board of[720]]

Rescinded **ARC 5950C**, IAB 10/6/21, effective 11/10/21; see 681—Chapter 9

CHAPTER 9
POLICIES, PRACTICES AND PROCEDURES

[Prior to 4/20/88, Regents, Board of[720]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

681—9.1(262) Uniform rules of personal conduct.

9.1(1) Definitions. For purposes of these rules, the following words shall have the meaning set forth unless the context requires otherwise.

“Admission” means admission, readmission, reentry, registration, and reregistration as a student to any educational program of the university.

“Board” means the board of regents, state of Iowa.

“Campus” means all property owned or used by the university.

“Dismissal of a member of the faculty or staff” means termination of status as an employee without right of reemployment.

“Expulsion of a student” means termination of status as a student without right of readmission.

“Member of the faculty or staff” means all employees of the university.

“Person” means any student, member of the faculty or staff, or visitor.

“President” means the president (or acting president) of the university or any person or persons designated to act on the president’s behalf for purposes of these rules.

“Student” means a person who is currently registered as a student at the university in an undergraduate, graduate or professional program on the campus, and includes students who have been suspended for a fixed period of time, during that fixed period; admitted students prior to enrollment; and persons continuing to work on a program of studies with the intent of returning to the university, even though not formally enrolled.

“Suspension of a member of the faculty or staff” means that during a specified period of time, the member of the faculty or staff is not eligible to continue as an employee of the university or to resume employment status or to be granted admission as a student. Subject to other rules and regulations of each institution concerning continued employment by the institution, a member of the faculty or staff who has been suspended for a specified period shall be reinstated by the university at the expiration of the suspension period provided that during the suspension period the member of the faculty or staff has not committed other acts of misconduct specified in 9.1(2) or in the policies of the university. A member of the faculty or staff under such suspension whose reemployment is denied on the basis of alleged acts of misconduct committed during a suspension period shall have a right to a hearing on that issue as provided in 9.1(3).

“Suspension of a student” means that during a specified period of time, the student shall be denied admission to the university. Subject to the rules and regulations of each institution concerning enrollment at the institution, a suspended student shall be reinstated to the university at the expiration of the suspension period provided that during the suspension period the student has not committed acts of misconduct specified in 9.1(2). A suspended student whose reinstatement is denied on the basis of alleged acts of misconduct committed during this suspension period shall have a right to a hearing on that issue, as provided in 9.1(3).

“University” means an institution of higher learning under the jurisdiction of the board. When used in the plural, the word means all institutions of higher learning under the jurisdiction of the board.

“Visitor” means any person on the campus who is not a student or a member of the faculty or staff.

9.1(2) Rules of personal conduct. The acts of misconduct defined in this subrule apply at the universities governed by the board. The universities are authorized to adopt other definitions of misconduct in addition to those in this rule. Any person, student, member of the faculty or staff, or visitor, who intentionally commits, attempts to commit, or incites or aids others in committing any of the following acts shall be subject to disciplinary action:

a. Obstruction or disruption of teaching, research, administration, disciplinary procedures, or other university or university-authorized function or event.

b. Unauthorized occupation or use of or unauthorized entry into any university facility. However, any entry into, use of, or occupation of any university facility by a student or member of the faculty or staff, which does not violate any of the other rules of personal conduct set forth herein, shall be deemed unauthorized only if specifically prohibited, if that facility is closed at that time to general use or if the person fails to comply with proper notice to leave.

c. Physical abuse or the threat of physical abuse against any person on the campus or at or during any university-authorized function or event, or other conduct which threatens or endangers the health or safety of others.

d. Theft of or damage to property of the university or of a person on the campus or at or during any university-authorized function or event.

e. Interference with the right of access to university facilities or with any other lawful right of any person on the campus.

f. Setting a fire on the campus or at or during any university-authorized function or event without proper authority.

g. Use or possession on the campus or at or during any university-authorized function or event of firearms, ammunition, or other dangerous weapons, substances, or materials (except as expressly authorized by the university), or of bombs, explosives, or explosive or incendiary devices prohibited by law.

h. Participation in a riot or unlawful assembly, or failure to disperse, as defined by state law, whether such acts occur on or off the campus, if such act or failure to act occurs:

(1) In the contiguous metropolitan area in which any university governed by the board is located; or

(2) During a function or event authorized or sponsored by the university or an organization recognized by or affiliated with the university.

i. Conduct off campus which leads directly to a violation of any of paragraphs “a” to “h” of this subrule.

9.1(3) Sanctions.

a. Any student or member of the faculty or staff who is found after appropriate hearing to have violated any of the rules of personal conduct set forth in 9.1(2) may be sanctioned up to and including suspension, expulsion, or dismissal.

NOTE: “Appropriate hearing” as used throughout these rules means pursuant to existing hearing procedures in effect at the university for students and members of the faculty and staff.

A faculty or staff member who is suspended as a sanction under rule shall receive no salary during the period of suspension; provided, however, that payment shall be made for work done prior to the date of the suspension order.

b. A person who applies for reinstatement to or reemployment by the university after a term of suspension or dismissal may be denied such reinstatement or reemployment if it is found that such person has committed any acts of misconduct specified in 9.1(2) or in the policies of the university. A person denied reinstatement or reemployment under this subrule shall have a right to an appropriate hearing or to follow the grievance process of the university.

c. Any sanction imposed under 9.1(3) “a” and “b” shall have operative effect at all universities, and a person not eligible for admission to or employment by one university shall be barred similarly at the other universities.

9.1(4) Emergency power.

a. The president is authorized to declare a state of emergency to exist at the institution upon a determination that violent actions or disruptive activities at the university are of such a nature as:

(1) To present a clear and present danger to the orderly processes of the university or to persons or property on the campus, and

(2) To require extraordinary measures to:

1. Safeguard persons or property at such institution, or

2. Maintain educational or other legitimate institutional functions.

b. The state of emergency shall cease to exist automatically 48 hours after it is declared unless the president, after reviewing the situation, determines that it should be extended, such determination to be

made under the standards established in 9.1(4)“a”(1) and 9.1(4)“a”(2). Each extension shall be for a maximum period of 48 hours with a new determination being made for each extension. The president may declare the state of emergency to be over before the 48-hour period has run.

c. As soon as feasible after declaring a state of emergency, the president shall notify the board of actions taken.

d. Upon a finding by the president as set forth in 9.1(4)“a,” the president is authorized to take such action as may be necessary to eliminate or alleviate a clear and present danger to the orderly processes of the university and to safeguard persons or property at the university or to maintain educational or other legitimate university functions including barring a particular person or persons from the campus.

9.1(5) *Sanctions under emergency power.*

a. Any person who, after appropriate hearing, is found to have violated knowingly a presidential order issued as contemplated in 9.1(4) may be disciplined, up to and including expulsion or dismissal from the university.

b. Any person who, after appropriate hearing, is found to have violated during a state of emergency, knowing that a state of emergency has been declared, any of the regents’ rules of personal conduct set forth in 9.1(2) of this policy may be disciplined, up to and including expulsion or dismissal from the university.

c. Any sanction imposed under this subrule shall have operative effect at all universities, and a person not eligible for admission to or employment by one university shall be barred similarly at the other universities.

9.1(6) *Constitutional rights.* The foregoing rules shall be construed so as not to abridge any person’s constitutional right of free expression of thought or opinion, including the traditional American right to assemble peaceably and to petition authorities.

681—9.2(262) Transfers. All transfer applicants from any institution of higher learning to a university governed by the board of regents are asked about their eligibility to return to the institution from which the applicant is transferring. If the applicants are not eligible to return, the following rules apply:

9.2(1) *Transfers among regent institutions.* Transcripts at all regent universities now include an appropriate notation if a student is ineligible for readmission or reenrollment. Admission is denied if the applicant currently is under disciplinary suspension or has been dismissed from one of the other regent universities for violation of the regents’ rules of personal conduct and is not eligible to reenter. Further, if such transfer applicant is currently on probation for having violated the regents’ rules of personal conduct at one university, the applicant, if admitted to another regent university, is admitted on probation.

9.2(2) *Transfers from nonregent institutions.* If the application for admission or the transcript from another institution shows that the applicant is not eligible to reenroll there, further inquiry will be made to determine the reason. Such inquiry may lead to admission, conditional admission, or denial of admission. Appeals from the decision will be referred to appropriate university channels.

9.2(3) *Applications from “visitors.”* “Visitors” to the campus who are believed to have violated the rules of personal conduct and who later apply for admission or employment may be denied admission or employment because of their prior conduct, subject to review if the denial is appealed by the applicant. An applicant who would be subject to such a denial and review at any university governed by the board of regents shall be subject to the same denial and review by the other two regent universities if application for admission or employment is made to them. The three universities shall cooperate in making known the identity of persons barred from admission or employment among all three institutions.

681—9.3(262) Alternate procedures when resources are not adequate. If, in the university president’s judgment, the university’s resources are not adequate to the task of providing hearings regarding violations of rules governing conduct at the institution on any particular occasion, the president may appoint one or more hearing examiners. Hearing examiners shall be licensed attorneys in the state of Iowa or shall have experience administering student judicial processes for a public institution.

681—9.4(23A) Policy on competition with private enterprise.

9.4(1) *Policy statement.* A primary responsibility of the board of regents is to oversee institutions whose missions include the creation and dissemination of knowledge. These missions encompass teaching,

research, and services. To fulfill their missions effectively, institutions under the control of the state board of regents occasionally provide goods and services which enhance, promote, or support the instructional, research, public service, and other functions to meet the needs of students, faculty, staff, patients, visitors, and members of the public participating in institutional events.

It is the policy of the board of regents that the institutions shall not engage in competition with private enterprise unless the activity will assist in the education, research, extension or service mission of the institutions.

All activities involving the sale of goods, services, or facility usage shall be in accordance with an authorization and statement of purpose approved by the chief business officer at each institution. This approval will be given only after review which demonstrates that one or more of the following conditions are met:

- a. The activity is deemed to be an integral part of the institution's educational, research, public service and campus support functions, and other educational and support activities.
- b. The activity is needed to provide an integral good or service which is not reasonably available in the community; or the activity is needed to provide an integral good or service at time, price, location, or terms which are not reasonably available in the community.
- c. The activity is carried out for the primary benefit of the campus community and is incidental to the education, research, service, or extension missions of the university.
- d. The activity is carried out due to the importance of maintaining the quality of the institution.

9.4(2) Definitions.

"Institutions under the control of the state board of regents" means the State University of Iowa, the University of Northern Iowa, Iowa State University of science and technology, Iowa School for the Deaf, and Iowa Braille and Sight Saving School.

"Private enterprise" means an individual, firm, partnership, joint venture, corporation, association, or other legal entity engaging in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing, or advertising of goods or services for profit.

9.4(3) Policy in writing. Each institution under the control of the state board of regents shall have in writing:

- a. A mechanism for reviewing proposed activities involving the sale of goods, provision of services, or usage of facilities to ensure that activities are consistent with board of regents policies; and
- b. A procedure for receiving, reviewing, and responding to inquiries about activities carried out by the institution.

9.4(4) Prohibition. State board of regents institutions shall not engage in activities provided by private enterprise except as provided below.

9.4(5) Exceptions provided by statute. This prohibition does not apply to the activities of an institution under the control of the state board of regents as provided in Iowa Code section 23A.2(10) "k"(1) to (10) or any other applicable provision of Iowa law.

9.4(6) Exemptions. The state board of regents exempts the following activities from the prohibition against competition with private enterprise.

- a. Goods and services that are directly and reasonably related to the mission of the institution including (activities such as):
 - (1) Conferences, institutes, outreach programs, specialized centers and other efforts and programs which provide continuing education;
 - (2) Child day care services and health services provided to members of the university community;
 - (3) Educational media, publication, distribution, and audiovisual centers and services;
 - (4) Family and guest housing;
 - (5) Laundry, custodial, maintenance, and similar services.
- b. Goods and services offered to only students, employees, or guests of the institution or school and which cannot be provided by private enterprise at the same or lower cost, including (activities such as):
 - (1) Gift shops which offer a limited and specialized array of goods;
 - (2) Specialized instruction in the visual or performing arts;
 - (3) Dormitory-based shops which serve students and offer a limited range of goods.

c. The acquisition, maintenance, and use of institutional aircraft and a vehicle fleet maintained for the purpose of transportation for educational and related purposes, including field trips.

d. Durable medical equipment or devices sold or leased for use off premises of an institution, school, or University of Iowa Hospitals and Clinics when:

- (1) The equipment is needed to initiate or effectuate a treatment regimen (i.e., implants); or
- (2) The equipment is essential to a rehabilitation program (i.e., crutches, prostheses); or
- (3) The equipment is of a specialized nature and is not reasonably available elsewhere (i.e., customized or adaptive equipment for the handicapped); or
- (4) A short-term supply of equipment is provided to avoid disruption in a treatment regimen when a patient is discharged.

e. Goods or services which are not otherwise available in the quantity or quality required by the institution, including (activities such as) specialized course materials, equipment, supplies, software, and publications.

f. Telecommunications systems utilized for communications within the institution's community of interest and broadcast and narrowcast communication systems, including microwave, fiber-optic and satellite communications.

g. Facilities, programs, and associated support services for fitness and recreation initiated and maintained primarily for the benefit of students, faculty, and staff.

h. Food services and sales located on campus and initiated and maintained primarily for the benefit of students, faculty, staff, and guests of the institution.

i. Sales of books, records, tapes, software, educational equipment and supplies, and personal computers and associated hardware.

j. Goods and services provided to other state board of regents institutions; affiliates of state board of regents institutions; federal, state, and local government entities; nonprofit organizations; entities established pursuant to Iowa Code chapter 28E; and student organizations.

9.4(7) *Provision for consultation with community and related business interests.* Each institution under the control of the state board of regents shall establish a mechanism for consultation with business interests in its community or area. This will involve the chief financial officer of the institution, and representatives of the institution, and will include the following:

a. Advising the institution on policies and procedures regarding the sale of goods or services which might compete with private enterprise.

b. Making recommendations, at the request of the institution, on particular activities.

c. Other duties as may be requested by the institution.

9.4(8) *Appeal process.* An appeal process is essential for resolving complaints involving competition with private enterprise.

a. A private enterprise which seeks to appeal an action or activity of an institution under the control of the state board of regents shall attempt to resolve the issue at the institutional level. The form of appeal to the institution shall be a letter to the chief business officer.

b. If the private enterprise is dissatisfied with the institution's response, the private enterprise may notify the executive director of the state board of regents and request assistance. This request shall be in writing and shall describe the action or activity which is being appealed.

c. The executive director may then take action to assist the private enterprise and the institution in resolving the issue.

d. If the issue remains unresolved, the executive director, at the request of the private enterprise, may docket the matter for review by the board of regents. If the matter is docketed, the executive director will prepare a recommendation for the board of regents to consider. A copy of the recommendation with notice of the time, date, and place of the meeting for which the matter has been docketed shall be transmitted to the private enterprise and the institutions prior to the meeting.

e. Board of regents action shall constitute a final agency action.

This rule is intended to implement Iowa Code chapter 23A.

681—9.5(262) Telecommunications policies and procedures. Rescinded **ARC 5950C**, IAB 10/6/21, effective 11/10/21.

681—9.6(262) Notification to students on increases in tuition, fees, or charges. Rescinded **ARC 5950C**, IAB 10/6/21, effective 11/10/21.

681—9.7(262) Distribution of docket information. Rescinded **ARC 5950C**, IAB 10/6/21, effective 11/10/21.

681—9.8(262) Procurement policy for goods and services. The best interests of the state of Iowa and of the regent institutions are served through implementation of a full and free competitive purchasing system for the procurement of goods and services fostered by the use of open specifications, competitive bids or quotations, and awards to the lowest responsible bidder or to the bidder that submits the bid or quotation that provides the best overall value. The name of the successful bidder and all other bidders and the amounts bid shall be supplied to any person upon oral or written request following the execution of the prime contract(s) or agreement(s) related to the procurement.

[**ARC 5950C**, IAB 10/6/21, effective 11/10/21]

These rules are intended to implement Iowa Code section 262.9(18) and chapters 262 and 23A.

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[Filed ARC 5950C (Notice ARC 5698C, IAB 6/16/21), IAB 10/6/21, effective 11/10/21]

[◇] Two or more ARCs

¹ Effective date of 681—9.4(23A) delayed 70 days from 8/16/89 by the Administrative Rules Review Committee at its August 3, 1989 meeting.

CHAPTER 10
RECORDS MANAGEMENT

[Prior to 4/20/88, Regents, Board of[720]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

681—10.1(305) Records management. The board of regents' office and each institution governed by the board of regents shall develop internal rules for the economical, efficient, and systematic management of its records. Each institutional and board office records management system shall be approved by the board of regents when found by the board to be consistent with the objectives of Iowa Code chapter 305.

681—10.2(305) Records system. Each system shall incorporate the following:

- a. Procedures dealing with records of transactions of the official business of the institution or board office, including design, handling, maintenance, filing, storage, and security.
- b. Procedures dealing with utilization of space, equipment, and supplies.
- c. Schedules for retention of records, and the form in which they are to be retained, either in offices or archives.
- d. Schedules for destruction of records and the method to be used.
- e. Standards for reproduction of records.

681—10.3(305) Public inspection. The system governing the records management procedure for each institution and the board office shall be available for public inspection at the respective institution and the office of the Executive Director, State Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322.

These rules are intended to implement Iowa Code chapter 305.

[Filed 6/27/75]

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CHAPTER 11
BOARD OF REGENTS ORGANIZATION AND GENERAL RULES

[Prior to 4/20/88, Regents, Board of[720]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

681—11.1(262) Organization.

11.1(1) *President and president pro tem.* Prior to May 1 in even-numbered years, a president shall be elected by the board of regents from its members for a two-year term to commence on May 1 in even-numbered years. A president pro tem shall be elected at the same meeting at which the board president is elected. If a vacancy occurs in the office of board president, the president pro tem shall serve as president until such time as a new president is elected by the board. If a vacancy occurs in the office of president pro tem, a successor shall be elected by the board of regents from its members as soon as practicable.

11.1(2) *Duties of the president.* The duties of the president include presiding at all meetings of the board, appointing members of all committees and task forces with the consent of the board of regents, executing, with the executive director, such instruments and contracts as may be ordered by the board, and performing such other duties as may be assigned by the board. The president of the board shall serve as an ex officio, nonvoting member of all standing committees.

11.1(3) *Executive director.* The executive director is appointed by the board. The duties of the executive director include recording proceedings of the board, preserving the documents and records of the board, providing a meeting agenda to the board, administering the board office, providing such staff work as may be necessary to assist the board in its planning and decision making, participating in budget preparation and presentation to the board, maintaining liaison between the board and other state agencies, providing information to the general assembly and the public, participating in the preparation and completion of matters relating to financing of capital improvements, and such other duties as may be assigned by the board.

11.1(4) *Submissions and requests.* Inquiries, submissions, petitions, and other requests directed to the board of regents may be made by letter or electronic message addressed to the executive director using the contact information available on the board of regents website.

Any person may petition for a written or oral hearing before the board. All requests for a hearing must be in writing and state the specific subject to be discussed and the reasons why a personal appearance is necessary if one is requested.

The executive director shall cause the subject matter of the petition to be investigated and determine whether a request is to be granted.

If the board grants a hearing, it shall be conducted in the manner prescribed by the board. The board may decide to grant a written hearing, an oral hearing, or both.

11.1(5) *Adoption of rules and policies.* The board of regents is the policymaking body representing the citizens of Iowa. It establishes goals and monitors progress toward those goals to ensure that the institutions under its governance accomplish their mission. The board of regents adopts rules and policies having general application to the institutions subject to its governance. The president of each institution is delegated the authority to adopt policies as may be appropriate for the operation of the individual institution and which are not inconsistent with the general rules and policies adopted by the board. The board of regents retains the authority to rescind any institutional policy.

11.1(6) *Meetings.* The board meets regularly throughout the year. The schedule of meetings may be established by the executive director and will be made available to the public at the office of the board of regents and on the board of regents website.

Six members of the board shall constitute a quorum for a meeting of the full board of regents. The number of votes required to constitute a majority for a given purpose shall be a majority of those present, assuming a quorum. Except where otherwise required by statute or these rules, the board shall conduct its meetings according to Robert's Rules of Order.

Members of the public are permitted to attend meetings of the board of regents to the fullest extent required by Iowa Code chapter 21, the Iowa open meetings Act. The president of the board of regents reserves the right to have individual attendees removed from any board meeting if the attendee engages in

behavior that materially interferes with the board's ability to conduct the meeting or other attendees' ability to observe or hear the proceedings.

11.1(7) Committees. The board of regents may establish standing committees of the board, interinstitutional committees of professionals drawn from the institutions and staff under its governance, and special committees or task forces. The function of any committee or task force shall be set by the president of the board of regents.

This rule is intended to implement Iowa Code sections 262.9 and 262.12.

[ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—11.2(262) Petition regarding rules. Rescinded IAB 12/15/99, effective 1/19/00.

681—11.3(262) Petition for declaratory ruling. Rescinded IAB 12/15/99, effective 1/19/00.

681—11.4(262) Rule adoption—opportunity for oral presentation. Rescinded IAB 12/15/99, effective 1/19/00.

681—11.5(262) Contested cases. Rescinded IAB 12/15/99, effective 1/19/00.

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¹ Effective date of 11.1(3), 11.1(4) and 11.1(6) delayed 70 days by the Administrative Rules Review Committee

CHAPTER 12
UNIVERSITY OF IOWA ORGANIZATION AND GENERAL RULES

[Prior to 4/20/88, Regents, Board of[720]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

681—12.1(262) Statement of university mission. The University of Iowa is a comprehensive public university with the mission to provide the highest quality undergraduate, professional, graduate, and continuing education and patient care. To fulfill this mission, the university engages in teaching; research; professional, public, and clinical services; and appropriate extension.

[ARC 9962B, IAB 1/11/12, effective 2/15/12]

681—12.2(262) Officers. The university has three statutory officers: president, secretary, and treasurer. The president is the chief administrative officer of the university and has such authority and duties as have been delegated by the board of regents.

[ARC 9962B, IAB 1/11/12, effective 2/15/12]

681—12.3(262) Organization/administration.

12.3(1) The academic mission of the university, to provide undergraduate, graduate, professional and continuing education, is carried out principally by the faculty and staff of the University of Iowa's eleven colleges: business, dentistry, education, graduate college, law, liberal arts and sciences, medicine, nursing, pharmacy, public health, and university college. The dean of each college is its chief administrative officer. The university's patient care mission is carried out principally by University of Iowa Health Care, the university's academic medical center.

12.3(2) A detailed listing of the university's administrative units is shown on the organizational chart at the following website: opsmanual.uiowa.edu/governance/university-iowa/organizational-charts-and-mission-statements.

12.3(3) Additional information regarding the university's administration can be found at the following website: www.uiowa.edu/homepage/fac-staff/administration.html.

[ARC 9962B, IAB 1/11/12, effective 2/15/12; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—12.4(262) University operations manual. The university's operations manual contains policies and procedures governing the internal operations of the university. It is available for review at the following website: opsmanual.uiowa.edu. The university archivist maintains prior versions of the operations manual at wayback.archive-it.org/org-120/*/http://www.uiowa.edu/~our/opmanual/.

[ARC 9962B, IAB 1/11/12, effective 2/15/12; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—12.5(262) Contracting authority. Except for authority retained by the board of regents in the regents policy manual, the board of regents has delegated to the president authority to make contracts and agreements as specified in the regents policy manual. Pursuant to and in accordance with that delegation, the president has further delegated contracting authority as outlined in the university's operations manual, part V, chapter 6. This delegated contracting authority is available for review at the following website: opsmanual.uiowa.edu/administrative-financial-and-facilities-policies/contracting.

[ARC 9962B, IAB 1/11/12, effective 2/15/12; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—12.6(262) Tobacco-free campus policy. In accordance with the Iowa smokefree air Act (Iowa Code chapter 142D), the University of Iowa has adopted a tobacco-free campus policy, which is incorporated by reference herein. The policy, together with campus boundary maps, is available at the following website: opsmanual.uiowa.edu/community-policies/tobacco-free-campus.

[ARC 9962B, IAB 1/11/12, effective 2/15/12; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—12.7(262) Alcoholic beverage policy. Alcoholic beverages may be consumed, served and sold in those areas of the University of Iowa as may be designated by the university but only in compliance with all existing university policies which are incorporated by reference herein, including, but without

limitation, the alcoholic beverage service guidelines and procedures at the following website: opsmanual.uiowa.edu/administrative-financial-and-facilities-policies/alcoholic-beverage-service-guidelines-and.

[ARC 9962B, IAB 1/11/12, effective 2/15/12; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—12.8(262) Communication, marketing, and public relations. Inquiries, submissions, and requests should be addressed to the Office of Strategic Communication, The University of Iowa, 300 Plaza Centre One, Iowa City, Iowa 52242, or to the Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905. Generally, inquiries, submissions, and requests from the public (other than applications for admission or employment) should be submitted either in writing or by email: sitenow.uiowa.edu/contact-us.

[ARC 9962B, IAB 1/11/12, effective 2/15/12; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—12.9(262) Merit system employee grievances. For purposes of the grievance procedure set forth in 681—12.10(262) and 681—12.11(262), “employee” means a merit system employee who has completed the six-month probationary period and is presently employed or who has been dismissed within the previous one-year period.

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 the 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 this procedure, which has been approved by the merit system director in accordance with 681—subrule 3.129(1). Employees in an initial probationary period will be allowed access to the grievance procedure with the right to appeal orally at Step 1 and in writing at Steps 2 and 3. The university may permit an oral presentation at Steps 2 and 3 if deemed necessary.

[ARC 9962B, IAB 1/11/12, effective 2/15/12; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—12.10(262) Grievance procedure.

12.10(1) An employee who has a grievance and wishes to use the grievance procedure must initiate Step 1 within 21 calendar days from the date of the discovery of the grievance. No grievance may be filed later than one year from the occurrence of the event which gave rise to the grievance.

12.10(2) An aggrieved employee has the right to be accompanied by no more than two representatives throughout the grievance procedure. The names of such representatives will be noted on written grievances and each subsequent request for review.

12.10(3) An aggrieved employee is allowed reasonable time off from regular university duties without loss of pay to investigate and process a grievance. The immediate supervisor of the employee shall make suitable arrangements.

12.10(4) The aggrieved employee may also request released time from work without loss of pay for such representative or representatives to investigate a grievance at any time following the oral presentation in Step 1 of the grievance procedure, except that the aggrieved employee and representative are allowed up to one hour off from regular university duties without loss of pay to confer before any grievance hearing held under the grievance procedure.

a. Any request for time off for a grievant’s representative is made in writing to the associate vice president for human resources or a designee, who will convey the request to the representative’s supervisor. The written request must contain an indication of the reason released time is necessary. The representative’s supervisor shall provide a reasonable bona fide amount of released time for the investigation, such time being scheduled as soon as reasonably possible and preferably within the same work day, consistent with the normal functioning of the employee’s department.

b. It is a violation of institutional policy to restrain, interfere with, coerce, or discriminate against an employee acting as a grievant’s representative in accordance with this procedure.

c. An employee acting as a grievant’s representative shall not use time provided for grievance investigation for other matters and shall conduct the investigation with dispatch.

12.10(5) Steps in the grievance procedure.

a. The grievance procedure consists of the following four steps:

(1) Step 1. An aggrieved employee states in writing that a grievance is being presented and then presents the grievance orally, providing to the employee's immediate supervisor the pertinent circumstances of the complaint or dispute and the actions requested. The supervisor responds in writing to the grievance within seven calendar days. In the response, the supervisor states the supervisor's understanding of the grievance, the response to the grievance, and justification for the response. If a satisfactory settlement is not reached, the employee has seven calendar days to request Step 2.

(2) Step 2. If the employee requests Step 2, a written grievance is forwarded by the aggrieved employee to the administrative head of the unit or department within seven calendar days. The administrative head of the unit or department or designee has ten calendar days to reply in writing. If a satisfactory settlement is not reached, the employee has seven calendar days to request Step 3.

(3) Step 3. If the employee decides to request Step 3, the written grievance is forwarded by the aggrieved employee to the head of the major functional or administrative unit of the university with a copy sent to the office of associate vice president for human resources. A meeting shall be held within ten calendar days after the grievance has been submitted to the head of the major functional or administrative unit. The university may be represented by the office of associate vice president for human resources, the head of the major functional or administrative unit or designee, and the administrative personnel involved in Steps 1 and 2. The aggrieved employee has the right to be accompanied by representatives. The head of the major functional or administrative unit shall respond in writing within seven calendar days. If a satisfactory settlement is not reached, the employee has seven calendar days to proceed to Step 4.

(4) Step 4. If the employee is not satisfied with the decision rendered under Step 3, a hearing before an arbitrator may be requested within seven calendar days following receipt of the Step 3 decision.

1. Such a request shall be in writing and include all of the information included in the initial grievance and subsequent appeals, all of the decision related thereto, and any other pertinent information the employee wishes to submit.

2. The appeal shall be signed and dated by the employee and shall be directed to the Merit System Director, State Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905, who will arrange for a hearing before an arbitrator. The arbitrator will be expected to render a decision within 30 calendar days following the conclusion of the hearing.

b. A written grievance shall contain a brief description of the complaint or dispute and the pertinent circumstances and dates of occurrence. It shall specify the university or merit system rule which has allegedly been violated and shall state the corrective action desired by the employee.

c. Presentations, reviews, investigations and hearings held under this procedure may be conducted during working hours, and employees who participate in such meetings shall not suffer loss of pay as a result thereof.

d. If an employee does not appeal a decision rendered at any step of this procedure within the time prescribed by this rule, the decision shall 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. Notwithstanding the foregoing, with the consent of both parties, any of the time limits prescribed by this rule may be extended.

[ARC 9962B, IAB 1/11/12, effective 2/15/12; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—12.11(262) Appeals. The board of regents shall approve the use of a single arbitrator in hearing an appeal.

12.11(1) The selection of the arbitrator shall be made from a panel of arbitrators as referred from the Federal Mediation and Conciliation Service.

12.11(2) The arbitrator shall hear a dispute appealed to the last step of the grievance procedure and render a decision thereon subject only to review by the courts.

12.11(3) The arbitrator establishes procedures for the conduct of the hearing in a fair and informal manner that affords each party reasonable and ample opportunity for case presentation and to rebut the presentation of the other.

12.11(4) The arbitrator will be expected to render a decision to the involved parties and to the board of regents within the prescribed time.

[ARC 9962B, IAB 1/11/12, effective 2/15/12]

These rules are intended to implement Iowa Code chapter 262.

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CHAPTER 13
IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY
ORGANIZATION AND GENERAL RULES

[Prior to 4/20/88, Regents, Board of[720]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

681—13.1(262) Organization.

13.1(1) *Statement of university mission.* Iowa State University of science and technology is a public land-grant institution serving the people of Iowa, the nation, and the world through its interrelated programs of instruction, research, extension and professional service. With an institutional emphasis in areas related to science and technology, the university carries out its traditional mission of discovering, developing, disseminating and preserving knowledge. The university's mission and vision may be found in the strategic plan at www.president.iastate.edu/projects/mission.

13.1(2) *Officers.* The university has three statutory officers: president, secretary, and treasurer. The president is the chief administrative officer of the university and has authority and duties as have been delegated by the board of regents.

A detailed listing of the university units is shown on the organizational chart at the following website: www.president.iastate.edu/sites/default/files/org/univorg.pdf.

13.1(3) *Operations.*

a. The senior vice president and provost oversees the academic, research, and extension activities of the university.

b. The academic mission of the university is principally carried out through its eight colleges: graduate, agriculture and life sciences, engineering, human sciences, liberal arts and sciences, design, business and veterinary medicine. The dean of each college is its chief administrative officer.

c. Extension and outreach are integral parts of the land-grant university system and provide the link whereby the findings of research are taken to the people of Iowa. The chief administrative officer is the vice president for extension and outreach.

d. The vice president for research oversees the university's broad range of research, which contributes to economic development in the state and the nation.

e. The senior vice president for student affairs oversees the various services provided to students, including student activities, student health and student housing and dining.

f. The senior vice president for operations and finance oversees the various business-related functions of the university, including physical plant, safety, accounting and purchasing.

13.1(4) *Communications.* Inquiries, submissions, and requests should be addressed to the Office of Strategic Relations and Communications. Contact information for the Office of Strategic Relations and Communications may be found online at the following address: www.ur.iastate.edu. Communications may also be addressed to the office of the Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905. Generally, inquiries, submissions, and requests by the public may be submitted by informal letter or email. However, application for some purposes is to be made on a specified form. Rule 681—13.6(262) provides an address for obtaining forms.

13.1(5) *Policy library.* The university policy library contains the policies governing the internal administrative operation of the university. It is available online at the following address: www.policy.iastate.edu/. Copies of the policies may be obtained from the Iowa State University Policy Administrator, 3550 Beardshear Hall, telephone (515)294-1385.

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—13.2 to 13.5 Reserved.

681—13.6(262) Forms. The university uses a number of forms (primarily electronic) in dealing with the public. Forms may be found via the University Forms website at www.policy.iastate.edu/forms.php.

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.7(262) General rules. Rescinded IAB 8/7/02, effective 9/11/02.

681—13.8(262) Contracting authority. Except for authority retained by the board of regents in the rules adopted under [681] of the Iowa Administrative Code or in the regents policy manual, the board of regents has delegated to the president authority to enter into contracts and agreements. The president has further delegated authority for entering into such contracts and agreements as outlined in the university's contracting authority policy. This policy is available for review at the following website: www.policy.iastate.edu/policy/contracting.

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13; ARC 2672C, IAB 8/17/16, effective 9/21/16]

681—13.9(262) Lost and found. Inquiries about items lost or found may be made by contacting Central Stores at (515)294-5762. A listing of lost and found items may be found at www.iastate.edu/found/.

[ARC 1078C, IAB 10/2/13, effective 11/6/13]

USE OF FACILITIES

681—13.10(262) General priority for facilities and grounds use. University facilities and grounds are primarily dedicated to the university's missions of teaching, research and service. While facilities and grounds are generally open to noncommercial use by the public, students, student organizations and staff, use for other than university-related purposes must not substantially interfere with university activities and must be in conformity with the requirements of this chapter. University-related activities, including the activities of recognized campus and student organizations, will be given priority.

13.10(1) Except as specifically indicated, the policies stipulated in rules 681—13.11(262) to 681—13.13(262) are applicable to noncommercial uses.

13.10(2) Commercial uses, including solicitation, advertising and sales, are subject to the university's rule on commercial and charitable uses in rule 681—13.15(262).

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—13.11(262) Access to facilities and grounds. University facilities and grounds are generally open to public access except as provided below:

13.11(1) Persons may not enter facilities or grounds without authorization when the facilities or grounds are locked, when signs indicate they are closed to the public or when they are closed to the public for specific events.

13.11(2) The following facilities and grounds are restricted areas. Access requires express permission of the relevant building supervisor, superintendent or other person in charge of the facility: individual residences or dwellings; research laboratories or facilities; farms and associated buildings; animal storage and confinement facilities; utility and maintenance closets; mechanical rooms; utility facilities; utility tunnels; storage areas; hazardous materials waste storage and handling areas; marked or fenced construction areas; institutional food preparation areas; private offices; workrooms; shops; areas where medical, psychological or other consultation takes place; radio and television studios; intercollegiate athletics competition facilities; or areas which bear signs indicating that access is restricted. The university has leased some of its facilities and grounds to other parties for use related to university purposes. Such areas are not open to public use except as provided by the lessee of the property or facility. The buildings at the Iowa State University Research Park are managed by a separate organization that regulates the use of these facilities and grounds.

13.11(3) Access to facilities and grounds may be denied when they are closed to the public for special university events or when access would conflict with an approved use of the facilities or grounds. The university may limit or control access to areas of the campus for ceremonial events and celebrations such as graduation.

13.11(4) Unapproved uses of university facilities and grounds by the general public are subject to preemption for university activities, for use by recognized student and campus organizations and for use by students, faculty and staff for purposes related to the university's mission.

13.11(5) Access to performances, art exhibits, museums and other exhibitions may be regulated by requirement of payment of a fee for entry. Visitors are required to abide by policies established for the various facilities and grounds.

13.11(6) Access to campus roads and parking is governed by university parking and traffic regulations, as well as signage erected upon campus roadways and parking areas.

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—13.12(262) When authorization is required for use of facilities and grounds open for general use. To prevent conflicts in the use of facilities and grounds, groups or persons wishing to use facilities and grounds, whether indoors or outdoors, should schedule use of university facilities and grounds as provided in this rule. ISU has designated public forum areas with few restrictions. Public events require filing of a notice, or approval depending on the event. “Public events” are defined as outdoor events in which more than 50 persons are participating or at which the sponsor reasonably expects more than 50 persons to be involved, or indoor events in which more than 15 persons are participating or at which the sponsor reasonably expects more than 15 persons to be involved. Organizations and groups desiring to use university facilities and grounds should contact the offices listed in subrule 13.12(3) to determine availability and fees for use.

13.12(1) Outdoor areas.

a. Designated public forums. The Edward S. Allen Area of Free Debate, located west and south of the Hub, and the area south of the Campanile have been designated as public forums for noncommercial expression. If these areas have not been reserved for use for university purposes or by student, faculty or staff organizations, any member of the public or of the university community may use these areas for expressive activities on a first-come, first-served basis. Signs or placards, each of which is carried by one or two persons, are permitted. Freestanding displays are permitted as long as the display occupies a space of less than 200 cubic feet and has a footprint of not more than 100 square feet, weighs less than 300 pounds and is accompanied at all times by an individual responsible for the display. Leafleting may be conducted if done in a way that avoids substantial littering of the campus.

b. Uses that require only notice. Student organizations, university departments, and others wishing to use outdoor areas other than a designated public forum for a public event must notify the Memorial Union Event Management office. If possible, such notice should be submitted at least 24 hours in advance of the event but, in any case, must be submitted at least 3 hours prior to the event. No approval is necessary if the event meets the following criteria:

- (1) On weekdays between the hours of 8 a.m. and 4 p.m., the event will be held at least 100 feet away from buildings that normally hold classes;
- (2) No other person or group has been authorized to use the area or has filed a notice of intent to use that area or an adjacent area;
- (3) The organizers do not intend to use amplification equipment or equipment requiring use of electrical power connections. Hand-held megaphones are permitted if used so as to direct the sound away from nearby buildings that normally hold classes;
- (4) Participants will not use displays other than signs or banners carried at all times by one or two participants (unattended displays may not be used without permission);
- (5) If the event is not held at one of the two public forum areas, the event will occur only between the hours of 8 a.m. and 10 p.m.; and
- (6) The sponsor of the event indicates that the event will comply with the general restrictions indicated above.

c. Uses that require approval. A public event not at a designated public forum, and which does not meet the above criteria, requires prior approval by the filing of an Online Event Authorization Request Form with the Student Activities Center when recognized student organizations make the request and with Facilities Planning and Management when university departments and nonuniversity entities make the request. It is preferred that the online request be made at least ten business days and not less than four business days in advance of the proposed event. The Student Activities Center or Facilities Planning and Management will make every effort to provide approval or nonapproval, with a statement of the reasons for

nonapproval, in a timely manner. The sponsors of the event may request a waiver of the four-day requirement. A waiver may be granted if the Student Activities Center or Facilities Planning and Management determines that there are good reasons for an exception.

(1) Approval of events will be based upon whether the event meets the general rules indicated in rule 681—13.14(262) and whether the event is appropriate for the location. Approval may be conditioned upon sponsors making reasonable assurances that the event will comply with the general rules. In addition, reasonable time, place and manner restrictions may be required. Unless the event will violate the law, events will not be disapproved based upon the content of proposed speaking or expressive activity. Persons denied authorization may appeal to the senior vice president for business and finance.

(2) Following approval of the event, the organization shall make particular arrangements regarding location, electrical power needs, custodial services, and provision for liability insurance as directed by the Student Activities Center or Facilities Planning and Management. If parking lots will be involved, the organization must receive clearance from the Parking Division, (515)294-3388. If streets will be involved, the organization must receive clearance from the office of the senior vice president for operations and finance, (515)294-6162. Preferred locations for outdoor events covered under this subrule are the areas south or north of the Campanile, west of Curtiss Hall, south of MacKay Hall, south of the Hub, south of the Parks Library, and west of Marston Hall provided the events do not conflict with university classes or scheduled activities and provided the events conform to appropriate uses for the area.

13.12(2) Indoor areas.

a. General policy regarding use. Any use of indoor areas must not conflict with university programs and events and must be compatible with the purpose of the facility or the particular area to be used.

(1) Members of the general public and campus community are free to enter university facilities, other than restricted areas, during business hours as necessary to transact business, seek information about the university or deliver petitions or correspondence.

(2) Organizations and groups desiring to use university buildings and facilities for meetings, events, and conferences should contact the offices listed in 13.12(3) to determine availability and fees for use.

(3) Organizations (other than recognized campus and student organizations) using classrooms, auditoriums, and meeting rooms will be charged the customary rental of those facilities. All users will be responsible for costs incurred for setup, equipment use, cleanup and use of services and materials of the university.

(4) To avoid disruption, the following kinds of indoor areas are not available for non-university-related assembly or solicitation: hallways, stairways, waiting rooms, residence halls and apartments, dining facilities, workrooms, common areas provided around service windows, the Lloyd Veterinary Medical Center and the Thielen Student Health Center. Atria and open areas in buildings are generally available for use except when they are used as waiting areas or common areas around service windows.

b. Uses that require scheduling. To avoid conflicts with university activities and permitted use by others, organized use of indoor areas by groups of 15 or fewer persons that will substantially exclude others from using the same or adjacent areas, other than transitory passage through public areas and hallways, requires scheduling through the Memorial Union Event Management Office when recognized student organizations make the request and with Facilities Planning and Management or Conference Planning and Management when university departments or nonuniversity entities make the request.

c. Uses that require approval. Organized or concerted assembly in or solicitation at indoor areas by groups involving more than 15 persons for non-university-related purposes must be approved by the filing of an Online Event Authorization Request Form with the Student Activities Center when recognized student organizations make the request and with Facilities Planning and Management or Conference Planning and Management when university departments or nonuniversity entities make the request. It is preferred that the online request be made at least ten business days and not less than four business days in advance of the activity. The Student Activities Center and Facilities Planning and Management or Conference Planning and Management will make every effort to provide approval or nonapproval, with a statement of the reasons for nonapproval, in a timely manner. The sponsors of the event may request waiver of the four-day requirement. A waiver may be granted if the Student Activities Center or Facilities Planning

and Management or Conference Planning and Management determines that there are good reasons for an exception.

(1) Approval of events will be based upon whether the event meets the general rules indicated in rule 681—13.14(262) and whether the event is appropriate for the facility.

(2) Approval may be conditioned upon sponsors making reasonable assurances that the event will comply with the general rules. In addition, reasonable time, place and manner restrictions may be required. Unless the event will violate the law, events will not be disapproved based upon the content of proposed speaking or expressive activity. Persons denied authorization may appeal to the senior vice president for business and finance.

13.12(3) *Facilities and grounds managed by separate university offices or organizations.*

a. The Student Activities Center and users must coordinate use of these facilities with the listed offices:

(1) Common areas in buildings—building supervisor for the building can be found at www.fpm.iastate.edu/maps/buildings/;

(2) Rooms in academic or administrative buildings—Room Scheduling, General Services Building, (515)294-4493. Room Reservation Request Forms are available at www.fpm.iastate.edu/roomscheduling/departement_form/;

(3) Memorial Union—Event Management Office, 3630 Memorial Union, (515)294-1437;

(4) Iowa State Center—Center Office, 4 Scheman Conference Center, (515)294-3347;

(5) Residence Halls—(515)294-2900 (general); (515)294-6428 (meeting rooms); (515)294-8384 (conferences);

(6) Schilleter and University Village (SUV) Office—(515)294-5360;

(7) Fredericksen Court Office—(515)294-2107;

(8) Recreation facilities and grounds—Recreation Services Administrative Office, 1180 State Gym, (515)294-4980. Recreation facilities and grounds are listed at www.recservices.iastate.edu/facilities/;

(9) Howe Hall Auditorium—Engineering Distance Education, (515)294-7470;

(10) University Studios—(515)294-6014;

(11) Farm Bureau Pavilion—Animal Science, (515)294-5424;

(12) Athletics facilities and grounds—Athletic Department, Jacobson Athletic Building, (515)294-3662. Athletic facilities and grounds are listed at www.cyclones.com/;

(13) Alumni Center—Alumni Association, 420 Beach Avenue, (515)294-4625;

(14) Reiman Gardens—1407 University Boulevard, (515)294-8994.

b. Students and student organizations have priority for use of residence facilities and grounds, recreation facilities and grounds and the Memorial Union. Students and student organizations may directly contact the offices listed above to schedule use of meeting rooms and other facilities and grounds.

c. Organizations (other than recognized campus and student organizations) using facilities and grounds will be charged the customary rental of those facilities and grounds. All users will be responsible for costs incurred for setup, equipment use, cleanup and use of services and materials of the university.

d. As part of the university's comprehensive effort to conserve energy and save money, activities will generally be scheduled in buildings normally open and operational in the evenings. More information may be obtained through the Room Scheduling Office, (515)294-5338. The ISU policy on facilities and grounds use after hours may be found in the policy library.

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—13.13(262) Display of noninstructional materials.

13.13(1) *Displays within buildings.* Posters, advertisements, or other visual display materials may be affixed only on permanent building bulletin boards. Such display materials may not have a surface area of greater than 300 square inches. Additional information regarding displays within buildings may be found in the ISU policy on facilities and grounds use activities in the policy library.

a. "General" bulletin boards may be used by Iowa State University students and organizations as well as the general public without approval for posting.

(1) Bulletin board notices must include the date they are posted or the date of the event and may be posted no more than one month in advance of the event.

(2) Undated and early notices will be removed.

(3) Properly posted notices will be removed after 30 days or, in the case of advertisements for an event, after the date of the event.

b. “Restricted” bulletin boards are limited to the use of designated departments or organizations. Use of these bulletin boards must be approved by the official representative of the respective department or organization.

13.13(2) *Exterior displays.*

a. Residence department buildings. Signs, banners, and other display materials may be affixed to buildings only with the authorization of the coordinator of residence life in each residence complex.

b. Academic buildings. Signs, banners, and other display materials may not be affixed to buildings. Rare exceptions may be made in cases in which the display materials are clearly associated with an academic function. Prior approval must be obtained from the Student Activities Center and from Facilities Planning and Management by the submission of an Activity Authorization Form. Such forms are available at the Student Activities Center.

c. Exterior display, not on buildings. Signs, banners, and other display materials may not be affixed to sidewalks, trees, fences, shrubs, light poles, or any other fixture of the landscape, nor may freestanding displays be placed in any area other than those areas scheduled through the activity authorization process. Except for those displays indicated in 13.12(1)“*a*” and 13.12(1)“*b*”(4) at events for which approval is not required, prior approval of displays must be obtained from the Student Activities Center by the submission of an Online Event Authorization Request Form for recognized student organizations or from Facilities Planning and Management for university departments or nonuniversity entities.

d. Cleanup and repair. All visual displays should be removed as they become outdated or after authorization has expired. Cleanup and repair charges may be billed to the organization/department/individual for failure to clean up promptly. Organizations, departments, individuals, or nonuniversity entities may be billed for cleanup and repair expenses for illegally posted materials. Additional information regarding exterior displays may be found in the ISU policy on facilities and grounds use activities in the policy library.

[ARC 8070B, IAB 8/26/09, effective 9/30/09; ARC 1078C, IAB 10/2/13, effective 11/6/13]

STANDARDS OF CONDUCT ON CAMPUS

681—13.14(262) General rules for facilities and grounds use.

13.14(1) University facilities and grounds may not be used in a manner that:

- a.* Substantially disrupts university events or the lawful use by other persons;
- b.* Substantially interferes with the free flow of vehicle or pedestrian traffic;
- c.* Results in injury or creates the threat of injury to persons;
- d.* Involves commission of a crime or illegal behavior;
- e.* Damages or defaces university property or threatens to damage property; or
- f.* Results in significant littering, pollution or other nuisance.

13.14(2) No person shall engage in harassment or stalking as defined by Iowa criminal law or engage in harassment in violation of university policy.

13.14(3) No person may engage in public urination, defecation or other actions that create a sanitary hazard.

13.14(4) A person who enters specialized facilities, such as libraries, recreation facilities and grounds, clinics, research laboratories and other research facilities, and areas not open to the general public must comply with policies established by such facilities and grounds. Questions about applicable policies should be directed to the manager or supervisor of the facility or grounds.

13.14(5) Weapons are not permitted on the campus except for purposes of law enforcement and as specifically authorized for purposes of instruction, research or service. A weapon is any instrument or device which is designed primarily for use in inflicting death or injury upon a human being or animal and which is capable of inflicting death or injury when used in the manner for which it was designed. Weapons

include any pistol, revolver, shotgun, machine gun, rifle or other firearm, BB or pellet gun, taser or stun gun, bomb, grenade, mine or other explosive or incendiary device, ammunition, archery equipment, dagger, stiletto, switchblade knife, or knife having a blade exceeding five inches in length. Residents of university housing may possess knives having a blade exceeding five inches for cooking purposes.

13.14(6) Consumption of alcohol is not permitted in outdoor areas of the campus. An exception is made for the consumption of alcoholic beverages served at approved events for which a valid liquor permit has been issued as provided by state law, and for private events or in designated areas at events. Unauthorized alcoholic beverages are subject to confiscation.

13.14(7) Vehicles are not permitted off roadways or parking areas without permission from Manager, Facilities Services, 152 General Services Building, telephone (515)294-0692 or from the Director of the Parking Department, 27 Armory, telephone (515)294-1987.

13.14(8) For reasons of safety, sanitation, and preservation of campus property, camping is not permitted except for special events approved by the senior vice president for operations and finance or senior vice president for student affairs.

[ARC 1078C, IAB 10/2/13, effective 11/6/13; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—13.15(262) Commercial and charitable uses. This rule applies to commercial and charitable uses other than those of university units, of university-affiliated entities or of recognized campus organizations.

13.15(1) Commercial solicitation, advertising and sales. Commercial solicitation, advertising and sales are not permitted on the campus except as follows:

a. Newspapers and periodicals may be distributed in established locations in accordance with the university's periodical distribution policy, which is available from the senior vice president for operations and finance.

b. Commercial advertising or displays on bulletin boards must conform to the provisions of subrule 13.13(1).

c. Commercial sales or solicitation may be approved by the senior vice president for operations and finance. Such activity may be approved for academic areas of the campus if the activity directly relates to the academic program. Otherwise, such commercial activity may be approved only in the area directly to the north of the Memorial Union, with priority being given to all other campus-related uses.

13.15(2) Charitable solicitation. Use of university mail systems and related facilities may be approved by the senior vice president for operations and finance for the solicitation of employees by charitable organizations when the following criteria are met.

a. The charitable organization presents documentation of its tax-exempt status as provided in Section 501(c)(3) of the Internal Revenue Code;

b. The solicitation is conducted once a year through an on-campus coordinated campaign of all eligible organizations meeting the conditions and giving written notice to the university of the desire to participate at least 120 days prior to the campaign period;

c. The organization may be expected to pay the administrative and out-of-pocket costs associated with using the university mail system or other university facilities and grounds;

d. The solicitation by any one charitable organization may occur once in any calendar year; and

e. Any eligible charitable organization acting pursuant to the authority of this rule may also make use of the payroll deduction system described in Iowa Code sections 70A.14 and 70A.15, if qualified under the terms of those provisions.

[ARC 1078C, IAB 10/2/13, effective 11/6/13; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—13.16(262) Conduct at public events. The following rules are intended to ensure the safety of students, faculty, staff and visitors to the campus and to ensure widest enjoyment of the benefit of public events at Iowa State University.

13.16(1) No person may engage in behavior that causes or threatens injury or damage to property, that results in disruption of a public event or that causes unreasonable interference with others' enjoyment of a public event.

13.16(2) Special rules may be enforced with respect to events that are open to the public, based upon the nature of the event. For example, performers may require that no cameras or audio- or video-recording

devices be permitted in the arena. Persons may be refused entry with items that may be used as projectiles. Umbrellas and other items that may obstruct the views of other attendees may be excluded from facilities and grounds.

13.16(3) Possession of, carrying in or consumption of alcohol is not permitted at public events. An exception may be made for the consumption of beer or wine served at approved events for which a valid liquor permit has been issued as provided by state law, and for designated events or designated areas at events. Unauthorized alcoholic beverages are subject to confiscation.

13.16(4) Aisles, walkways and stairs must be kept clear of hazards and obstacles. Knapsacks, duffel bags, backpacks, bags or other containers shall be small enough to fit completely on or under one seat, and shall be so kept at all times.

13.16(5) Laser pointers and similar devices are not permitted at athletic and performing events and are subject to confiscation. A person who uses any such device to interfere with athletes and performances is subject to immediate removal from the facility and grounds.

13.16(6) Iowa State University reserves the right to reassign parking and seating locations at public events for purposes of access, efficiency or to reduce the likelihood of disruption.

13.16(7) Any person carrying containers or bags which may contain materials not permitted at public events may be required either to open the container or bag to assure compliance, or to check the container or bag, if such facilities are available for storage of such items, or to dispose of such materials, or to return the materials to the person's automobile. In addition, a patron may be subject to search using a magnetometer to ensure the absence of weapons or other hazardous or banned materials.

13.16(8) Auditorium doors will be closed when performances begin. A latecomer may be required to wait to be seated until an appropriate program break. Standing in aisles during performances is not permitted, except by employees.

13.16(9) In order to ensure that a person attending events may enter facilities and grounds efficiently, a person leaving the facility or grounds early in the event may be denied the right to secure a pass to reenter.

[ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.17(262) Regulation of smoking, alcohol and food and beverages.

13.17(1) Consistent with the Iowa smokefree air Act (Iowa Code chapter 142D), Iowa State University has adopted a smoke-free campus policy, which is incorporated by reference herein. The policy is available on the Internet at the following address: policy.iastate.edu/policy/smoking/.

13.17(2) Unless specifically authorized, the consumption of alcoholic beverages is not permitted on the campus, within university buildings, within university vehicles, or on other university property. Alcohol may be consumed in residences or privately leased units on the campus as allowed by law and the rules or lease agreement applicable to the unit. Otherwise, the university will determine the time, place, and conditions under which alcoholic beverages are consumed on university property. Events at which alcoholic beverages are served require evidence of a properly issued state alcohol permit. Persons violating state law with respect to possession and consumption of alcohol are subject to citation, arrest or exclusion from the campus. The ISU policy on alcohol, drugs, and other intoxicants may be found in the policy library.

13.17(3) Food and beverages shall be consumed in academic buildings only in areas designated by the responsible departmental supervisor.

[ARC 8070B, IAB 8/26/09, effective 9/30/09]

681—13.18(262) Animals on campus.

13.18(1) All livestock and other domesticated animals, including but not limited to fowl, cats, dogs, cows, horses, mules, sheep, goats, swine, or reptiles, when on university property, must be kept confined or otherwise physically constrained. Any such animal found running at large on university grounds or found within university facilities and not part of a university-sponsored research program or project may be impounded. Consistent with the laws of the state of Iowa, such animals may be turned over to a city pound or other appropriate state or university agency.

13.18(2) For sanitation and safety reasons, except as provided below, animals are not permitted in university buildings. This prohibition shall not apply to animals that are:

- a. Specially trained for and under the control of an individual with disabilities.
- b. Used for teaching and research purposes.
- c. Receiving treatment at the Lloyd Veterinary Medical Center or other approved facility.

13.18(3) Pets are permitted on the campus in outdoor areas when properly controlled and confined and when their presence does not jeopardize the safety or sanitation of university facilities or grounds or the safety of individuals on the campus. In the case of pets such as dogs, proper confinement shall consist of a cage or a leash of sufficient strength to restrain the dog held by a person competent to govern the behavior of the dog.

a. Any pets brought on the campus must be properly licensed and vaccinated under the laws of Iowa, and tags indicating such license and vaccination shall at all times be attached to the collar of the pet.

b. In those cases in which impoundment is necessary, the owner of the animal or its claimant shall be personally responsible for all costs associated with reclaiming the animal.

c. Any person who walks an animal on public areas of the campus shall be responsible for the control and behavior of the animal, as well as the prompt collection and disposal of the solid waste excreted by that animal.

[ARC 1078C, IAB 10/2/13, effective 11/6/13]

681—13.19(262) Authority to order persons off the campus. Any person violating university regulations may have the person's permission to remain in or on university premises revoked. A person who does not voluntarily leave, or who immediately returns, is subject to arrest for trespassing under state law. A person who has engaged in serious or repeat violations of university regulations, who has committed crimes, or who has endangered other persons may be banned by the director of public safety or the director's designee from all or part of the campus. Such orders shall be issued in writing. Any person who is subject to such an order may appeal such action to the senior vice president for operations and finance, who shall promptly handle the appeal. A person who violates such orders is subject to arrest and prosecution for trespassing.

[ARC 1078C, IAB 10/2/13, effective 11/6/13; ARC 5951C, IAB 10/6/21, effective 11/10/21]

These rules are intended to implement Iowa Code sections 17A.3 and 262.9.

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CHAPTER 14
THE UNIVERSITY OF NORTHERN IOWA
ORGANIZATION AND GENERAL RULES
[Prior to 4/20/88, Regents, Board of[720]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

681—14.1(262) Organization.

14.1(1) *Statement of university mission.* The University of Northern Iowa is a comprehensive public university with the mission to provide the state and region with the highest quality undergraduate education, as well as professional, graduate, and continuing education programs. Along with being a distinguished arts and sciences university, it maintains outstanding professional programs in areas such as education and business. It provides leadership in the preservice and in-service preparation of teachers, administrators and other educational personnel for schools, colleges, and universities. It offers programs and conducts research and community outreach programs to strengthen the educational, social, cultural, and economic development of Iowa and the larger community.

14.1(2) *Officers.* The university has three statutory officers: president, secretary, and treasurer. The president is the chief administrative officer of the university and has such authority and duties as have been delegated by the board of regents.

The president has nominated and the board of regents has appointed four vice presidents. The provost and executive vice president is acting president in the president's absence and is the chief academic officer of the university, having general administrative responsibility under the president for the educational program of the university. The vice president for student affairs is responsible for the administration of all student services. The vice president for finance and operations serves as the chief fiscal officer of the university.

A detailed listing of the university units is shown on the organizational chart contained in the directory of the university.

14.1(3) *Operation.* In order to fulfill the academic mission of the university, the following academic units have been established: college of business, college of education, graduate college, college of humanities, arts and sciences, college of social and behavioral sciences, office of continuing education and the library.

The dean of each college or unit is its chief administrative officer. Academic departments function within the organizational structure of colleges. The executive officer of a department is the head, who is the chief administrative officer of an academic department.

14.1(4) *Policies and procedures.* The university policies and procedures govern the internal academic and administrative operations of the university. The policies and procedures are available for public inspection on the university website.

[ARC 9962B, IAB 1/11/12, effective 2/15/12; ARC 5951C, IAB 10/6/21, effective 11/10/21]

681—14.2(262) General rules.

14.2(1) Sales persons or agents for any product, proposition, or cause are prohibited from soliciting employees or students in any building or part of the university property, except with the permission of the vice president for finance and operations in the case of employees or the vice president for student affairs in the case of the students.

14.2(2) Permission is granted in limited cases by the vice president for finance and operations for the solicitation of employees by charitable organizations under all of the following circumstances:

a. The charitable organization presents documentation of its tax-exempt status as provided in Section 501(C)(3) of the Internal Revenue Code.

b. The solicitation is conducted through the university's campus mail system or once a year through an on-campus coordinated campaign of all eligible organizations meeting the conditions and giving written notice to the university of the desire to participate at least 120 days prior to the campaign period.

c. The organization may be expected to pay the administrative and out-of-pocket costs associated with using the university campus mail system or other university facilities.

d. The solicitation by any one charitable organization may occur once in any calendar year and must not interfere with normal operations.

e. No solicitation using the university's facilities may occur except as described above; however, any eligible charitable organization may arrange to conduct information sessions at which no solicitation occurs, at times and places and in a manner the university deems reasonable.

f. Any eligible charitable organization acting pursuant to the authority of this rule may also make use of the payroll deduction system described in Iowa Code sections 70A.14 and 70A.15, if qualified under the terms of those provisions.

[ARC 9962B, IAB 1/11/12, effective 2/15/12; ARC 5951C, IAB 10/6/21, effective 11/10/21]

These rules are intended to implement Iowa Code sections 70A.14, 70A.15, and 262.9.

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CHAPTER 15
IOWA BRAILLE AND SIGHT SAVING SCHOOL
ORGANIZATION AND GENERAL RULES
[Prior to 4/20/88, Regents, Board of[720]]
Rules transferred to 281—Chapter 11, IAC Supplement 9/3/25

CHAPTER 16
IOWA SCHOOL FOR THE DEAF
ORGANIZATION AND GENERAL RULES
[Prior to 4/20/88, Regents, Board of[720]]
Rules transferred to 281—Chapter 11, IAC Supplement 9/3/25

CHAPTER 17
PUBLIC RECORDS AND
FAIR INFORMATION PRACTICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

The board of regents hereby adopts, with the following exceptions and amendments, rules of the Government Task Force on Uniform Rules of Agency Procedures relating to public records and fair information practices which are printed in the first Volume of the Iowa Administrative Code.

681—17.1(22) Definitions. As used in this chapter:

“*Agency*” means the state board of regents and the institutions it governs—State University of Iowa, Iowa State University of science and technology, University of Northern Iowa, Iowa School for the Deaf, and Iowa Braille and Sight Saving School.

“*Custodian*” means the official delegated authority by the agency to release records or that official’s designee. Custodians are as follows: for the state board of regents, the executive director; for the State University of Iowa, the institutional secretary; for Iowa State University of science and technology, the institutional secretary; for the University of Northern Iowa, the institutional secretary; for Iowa School for the Deaf, the superintendent; and for Iowa Braille and Sight Saving School, the superintendent.

681—17.3(22) Requests for access to records.

17.3(1) Location of record. A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to Executive Director, State Board of Regents, Old Historical Building, Des Moines, Iowa 50319. The board of regents will forward the request to the appropriate person.

17.3(2) Office hours. Open records shall be made available during all customary office hours, which are from 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays. Some offices close for the noon hour from approximately 12 noon to 1 p.m. Additionally, some office hours may conclude at 4 p.m. during the summer.

17.3(3) Request for access. Requests for access to records may be in writing or in person. The agency may accommodate telephone requests. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

17.3(7) Fees.

c. Supervisory fee. An hourly fee may be charged for actual agency expenses in supervising the examination and copying of requested records. The custodian shall prominently post in agency offices the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly compensation of an agency clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

681—17.6(22) Procedure by which a subject may have additions, dissents, or objections entered into the record. Except as otherwise provided by law, the subject of a record shall be allowed to have a written statement of additions, dissents, or objections entered into the record. The subject shall send the statement to the custodian of the record or to the board of regents office. The statement must be dated and signed by the subject, and shall include the current address and telephone number of the subject or the subject’s representative.

681—17.7(22) Consent to disclosure by the subject of a confidential record. The subject of a confidential record may consent to agency disclosure to a third party of that portion of the record concerning the subject. The consent must be in writing and must identify the particular record or records that may be disclosed, the particular person, or class of persons, to whom the record may be disclosed. The

person to whom the record is to be disclosed must provide proof of identity. Appearance of counsel on behalf of the subject will be deemed consent to disclose records about the subject to that attorney.

681—17.9(22) Disclosures without consent of the subject.

17.9(1) Open records are routinely disclosed without the consent of the subject.

17.9(2) To the extent allowed by law, disclosure of confidential records or exempt records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a. For a routine use as defined in rule 17.10(22) or in the notice for a particular record system.
- b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that the record is transferred in a form that does not identify the subject.
- c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.
- d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.
- e. To the legislative services agency under Iowa Code section 2A.3.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. In response to a court order or subpoena.

681—17.10(22) Routine use. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

To the extent allowed by law, the following uses are considered routine uses of all agency records:

1. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential or exempt records.
2. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.
3. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.
4. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
5. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.
6. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

681—17.11(22) Consensual disclosure of confidential records.

17.11(1) *Consent to disclosure by a subject individual.* The subject may consent in writing to agency disclosure of confidential records as provided in rule 17.7(22).

17.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official’s intervention on behalf of the subject in a matter that involves the agency may be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

681—17.12(22) Release to subject.

17.12(1) The subject of a confidential record may file a written request to review confidential records about that person. However, the agency need not release the following records to the subject:

- a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18).
- b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.
- c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code.
- d. As otherwise authorized by law.

17.12(2) When a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

681—17.13(22) Availability of records.

17.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

17.13(2) *Confidential records.* The following records shall be kept confidential. Records are listed by category, according to the legal basis for withholding them from public inspection.

- a. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))
- b. Sealed bids received prior to the opening of bids. (Iowa Code section 72.3)
- c. Tax records made available to the agency. (Iowa Code sections 422.17 and 422.20)
- d. Student records (Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g and Iowa Code section 22.7)
- e. Hospital records, medical records, and professional counselor records (42 CFR Part II, IAC 653—13.10(10), Iowa Code sections 228.2 and 135.40 to 135.42)
- f. Work product of an attorney (Iowa Code section 602.10112). Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R. Civ. P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.
- g. Public peace officers' investigative reports. (Iowa Code chapter 692)
- h. Criminal identification files of law enforcement agencies. (Iowa Code chapter 692)
- i. Records of identity of owners of public bonds or obligations. (Iowa Code section 76.11)
- j. Information concerning the nature and location of any archaeological resources or site. (Iowa Code section 263B.10)
- k. Documents related to civil rights actions. (Iowa Code section 216.15(4))
- l. Any other records made confidential by law.
- m. Records which are exempt from disclosure under Iowa Code section 22.7.
- n. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“d.”
- o. Those portions of agency staff manuals, instructions, or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases, when disclosure of these statements would:
 - (1) Enable law violators to avoid detection;
 - (2) Facilitate disregard of requirements imposed by law; or
 - (3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2 and 17A.3)
- p. Records exempted from public inspection under any other provision of law.

681—17.14(22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 17.1(22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

17.14(1) *State board of regents.* Personnel and employment management information systems. The above listed records system is collected pursuant to the authority of Iowa Code chapter 262. Storage is in paper form and information cannot be matched, collated and compared.

17.14(2) *State University of Iowa.*

- a. Payroll and personnel information system
- b. Professional and scientific employees—employment status information system
- c. General service staff employment register
- d. Faculty personnel information system
- e. Student record information system
- f. Student aid resource management system
- g. Gifts and grants information management system
- h. Annual budget line entry system
- i. Student admission information management system
- j. Patient information system
- k. Hospital management information system
- l. Purchasing office management system
- m. Construction/jobs management system
- n. Event ticket sales systems
- o. Motor pool management system
- p. Residence halls management systems

All of the above listed records are collected pursuant to the authority of Iowa Code chapters 262, 262A, 263, 263A, and 271. All are stored in electronic form. Supplementary records in these categories are stored in paper form or on microfilm or microfiche. Information in categories lettered “a” through “i” can be matched, collated, and compared. Information in categories lettered “j” and “k” can be matched, collated, and compared. Information in categories lettered “l” through “p” cannot be matched, collated, and compared.

17.14(3) *Iowa State University of science and technology.*

- a. Student information system, for example, biographical, academic, housing, financial aid and admissions
- b. Personnel information system, for example, biographical, employment, payroll and budget information for the faculty, professional and scientific and merit systems
- c. Accounting information system, for example, accounts receivable, accounts payable, budget system, gifts and grants, and contracts and grants
- d. Telecommunications information system
- e. Miscellaneous information systems, for example, transportation services, media resources, information service biographical files, affirmative action, travel, traffic and library circulation
- f. Veterinary diagnostic laboratory system
- g. University extension system, for example, continuing education units, and plant pathology, horticulture, seed and soil testing
- h. Patient information system
- i. Medical management system
- j. Purchasing system
- k. Police records system
- l. Parking systems registration information
- m. Alumni records and event ticket sales system

- n. State board of regents registered bonds system
- o. Project/construction management systems
- p. Facilities and maintenance information systems

All of the above listed records are collected pursuant to the authority of Iowa Code chapters 262, 262A, and 266. All are stored in electronic form, except categories lettered “f” and “h” which are stored in hard copy form. Duplicate information or copies of the electronically stored information may be found in some cases on microfilm, microfiche or hard copy. Information in categories lettered “a” through “e,” “g,” “j,” “l,” and “m” can be matched, collated, and compared. Information in categories “f” and “h” can be matched, collated, and compared only with accounts receivable (see category “c”). The remaining categories cannot be matched, collated, or compared.

17.14(4) *University of Northern Iowa.*

- a. Academic achievement center records systems
- b. Academic advising examination services/orientation information systems
- c. Academic computing center systems
- d. Accounts receivable/payable systems
- e. Admissions information systems
- f. Affirmative action records systems
- g. Alumni foundation/development systems
- h. Architect/planning/engineering records systems
- i. Athletic department records systems
- j. Budget management records systems
- k. College of education/school of business advising center record systems
- l. Continuing education/correspondence/extension records systems
- m. Financial aid information systems
- n. Grants and contracts records systems
- o. Housing/dining systems
- p. Library/archives records systems
- q. Personnel/budget/payroll information systems
- r. Physical plant systems
- s. Purchasing/inventory systems
- t. School of business division of external services records systems
- u. Student information systems (student records)
- v. Student union/student activities records systems
- w. *Academic affairs information systems #
- x. *Ancillary services records systems
- y. *Counseling/health/pharmacy systems
- z. *Deans/department heads/faculty advisors record systems
- aa. *Handicapped services systems #
- ab. *Institutional officials records systems #
- ac. *Institutional research records systems including social/behavioral research center
- ad. *Operations record systems
- ae. *Placement/career center/cooperative education systems
- af. *Price laboratory management/records systems #
- ag. *Public safety records systems
- ah. *Small business assistance center (hazardous waste) record systems
- ai. *Special events record systems
- aj. *Speech/hearing/reading clinics records systems #
- ak. *Student field experience systems #
- al. *United faculty records systems #
- am. *UNISA records systems #

All of the above listed records systems are collected pursuant to the authority of Iowa Code chapters 262, 262A, 265 and 268. Means of storage include electronic unless otherwise noted. Moreover, some

records may also be stored in micrographic or paper forms. All or parts of information in each system may be matched, collated, and compared except for those systems noted by an asterisk (*).

Storage in paper or micrographic form only.

17.14(5) *Iowa School for the Deaf.*

- a. Academic
- b. Medical
- c. Business—payroll and purchasing
- d. Residential
- e. Personnel

All of the above listed records, in whole or in part, are maintained on paper and in electronic form. The records stored in electronic form for systems “a,” “b,” “d,” and “e” can be matched, collated, and compared. Records stored in electronic form for system “c” cannot be matched, collated or compared to any other of the systems. All of the above listed records are collected pursuant to the authority of Iowa Code chapters 262 and 270.

17.14(6) *Iowa Braille and Sight Saving School.*

- a. Payroll and personnel information system
- b. Faculty and administrative personnel information system
- c. Financial accounting data system
- d. Student record information system (academic and medical)
- e. Annual budget system
- f. Evaluation report system for all students
- g. Consultative reports completed for other agencies
- h. Gifts and grants record keeping system
- i. State large print orders system
- j. State lend/lease depository system

Records in “a,” “c,” and “e” are stored in electronic form and can be matched, collated, and compared. Records in “b,” “d,” and “f” through “j” are stored on paper and cannot be matched, collated, or compared. All of the above listed records are collected pursuant to the authority of Iowa Code chapters 262, 262A, and 269.

681—17.15(22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 17.1(22). These records are routinely available to the public. However, the agency’s files of these records may contain confidential information. In addition, some records may contain information about individuals. All records are stored both on paper and in automated data processing systems unless otherwise noted.

17.15(1) Rule making. Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is not stored in an automated data processing system.

17.15(2) Board records. Agendas, minutes, and materials presented to the state board of regents are available from the office of the state board of regents, except those records concerning closed sessions which are confidential under Iowa Code section 21.5(4) and other provisions of law. Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored on an automated data processing system.

17.15(3) Publications. News releases, annual reports, project reports, agency newsletters, etc., are available through the institutions’ offices for public information. Brochures describing various agency programs are available at local offices of the agency.

Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees.

17.15(4) Statistical reports. Periodic reports for various agency programs are available through the institutions’ office for public information.

17.15(5) Grants. Records on persons receiving grants are available through the institutions’ offices for public information. The records may contain information about employees of a grantee.

17.15(6) Published materials. The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

17.15(7) Policy manuals. The agency employees' manual, containing the policies and procedures for programs administered by the agency, is available in every office of the agency. Policy manuals do not contain information about individuals.

17.15(8) All other records that are not exempted from disclosure by law. The agency maintains a variety of records which do not generally contain information pertaining to named individuals.

17.15(9) All other records that are not exempted from disclosure by law.

17.15(10) All data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

681—17.16(22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the regulations of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

These rules are intended to implement Iowa Code section 22.11.

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CHAPTER 18
DECLARATORY ORDERS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

681—18.1(17A) Petition for declaratory order. Any person may file a petition with the board of regents for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the board of regents at the office of the Board of Regents, 100 Court Avenue, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The board of regents shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board of regents with an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BOARD OF REGENTS	
Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}
	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner’s interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.

The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative, and a statement indicating the person to whom communications concerning the petition should be directed.

681—18.2(17A) Assignment to regent institution.

18.2(1) In matters which relate exclusively or primarily to one of the universities or schools under the governance of the board of regents, the board of regents will normally assign action on declaratory orders to the president or superintendent of the affected institution. The president or superintendent, or the president or superintendent’s designee, shall assume all powers of the board of regents to handle and rule on petitions for declaratory orders. Assignment may be made by the executive director of the board of regents and will normally occur within five days of filing of the petition.

18.2(2) Upon assignment of a petition to a president or superintendent, the term “board of regents” in this chapter shall refer to the president or superintendent. Pleadings and documents related to such petitions shall be filed with the president or superintendent, or as designated in writing to the parties, and the documents may be revised to reflect that the matter is before the affected institution.

18.2(3) A party adversely affected by an adverse declaratory order issued by a regent institution may seek review of the order under 681—subrule 11.1(4).

681—18.3(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the board of regents shall give notice of the petition to all persons not served by the petitioner pursuant to

rule 681—18.7(17A) to whom notice is required by any provision of law. The board of regents may also give notice to any other persons.

681—18.4(17A) Intervention.

18.4(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 25 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

18.4(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the board of regents.

18.4(3) A petition for intervention shall be filed at the office of the Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322, or, in the case of a matter assigned to an institution, to the person and address indicated in the notice of assignment of the petition. Such a petition is deemed filed when it is received by that office. The board of regents will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BOARD OF REGENTS	
Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	<div style="font-size: 3em; line-height: 1;">}</div> <div style="text-align: right; padding-right: 20px;"> PETITION FOR INTERVENTION </div>

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address and telephone number of the intervenor and intervenor's representative and a statement indicating the person to whom communications should be directed.

[ARC 5952C, IAB 10/6/21, effective 11/10/21]

681—18.5(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The board of regents may request a brief from the petitioner, any intervenor or any other person concerning the questions raised.

681—18.6(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Executive Director of the Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322, or, in the case of a matter assigned to an institution, to the person and address indicated in the notice of assignment of the petition.

[ARC 5952C, IAB 10/6/21, effective 11/10/21]

681—18.7(17A) Service and filing of petitions and other papers.

18.7(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions

presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

18.7(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322, or, in the case of a matter assigned to an institution, to the person and address indicated in the notice of assignment of the petition. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the board of regents or, in the case of a matter assigned to an institution, the president or superintendent.

18.7(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by rule 681—20.12(17A).

[ARC 5952C, IAB 10/6/21, effective 11/10/21]

681—18.8(17A) Action on petition.

18.8(1) Within the time allowed by 1998 Iowa Acts, chapter 1202, section 13(5), after receipt of a petition for a declaratory order, the executive director, the president or superintendent or designee shall take action on the petition as required by 1998 Iowa Acts, chapter 1202, section 13(5).

18.8(2) The date of issuance of an order or of a refusal to issue an order is as defined in rule 681—20.2(17A).

681—18.9(17A) Refusal to issue order.

18.9(1) The board of regents shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board of regents to issue an order.
3. The board of regents does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other board of regents or judicial proceeding that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
10. The petitioner requests the board of regents to determine whether a statute is unconstitutional on its face.
11. The petitioner requests the board of regents to issue a preliminary determination in any academic matter, such as sufficiency of academic performance or whether or how a particular grade or degree may or will be awarded to an individual.
12. The petitioner requests a determination of a matter being considered in an internal grievance, disciplinary hearing or investigatory process underway at the board of regents or a regent institution.
13. The petitioner requests a determination regarding a purchasing transaction, a grant or a contract of the board of regents or regent institution.
14. The petitioner requests a determination regarding a personnel matter, including but not limited to layoff, program reorganization and benefits matters.

15. The petitioner requests a determination regarding the provision of medical care to a patient or animal at medical or veterinary facilities operated by a regent institution.

16. The petitioner requests a determination of a matter subject to collective bargaining or a matter required to be addressed under the terms of any collective bargaining agreement.

18.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition.

18.9(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

681—18.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

681—18.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

681—18.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the board of regents, the petitioner, and any intervenors and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the board of regents. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

[Filed 11/23/99, Notice 4/7/99—published 12/15/99, effective 1/19/00]

[Filed ARC 5952C (Notice ARC 5700C, IAB 6/16/21), IAB 10/6/21, effective 11/10/21]

CHAPTER 19
PROCEDURE FOR RULE MAKING

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

681—19.1(17A) Applicability. Except to the extent otherwise expressly provided by statute, all rules adopted by the board of regents are subject to the provisions of Iowa Code chapter 17A, the Iowa administrative procedure Act, and the provisions of this chapter.

681—19.2(17A) Advice on possible rules before notice of proposed rule adoption. In addition to seeking information by other methods, the board of regents may, before publication of a Notice of Intended Action under Iowa Code section 17A.4(1) “a,” solicit comments from the public on a subject matter of possible rule making by the board of regents by causing notice to be published in the Iowa Administrative Bulletin of the subject matter and indicating where, when, and how persons may comment.

681—19.3(17A) Public rule-making docket.

19.3(1) Docket maintained. The board of regents shall maintain a current public rule-making docket. The board of regents designates its director of legal affairs, human resources and information technology as its agency rules coordinator. Persons interested in information about rules being considered by the board of regents should contact the following office:

Board of Regents
11260 Aurora Avenue
Urbandale, IA 50322

Persons interested in information about rules being considered at each regent institution should contact the following offices:

University of Iowa
Office of University Relations
5 Old Capitol
Iowa City, IA 52242

Iowa State University
Office of University Counsel
3550 Beardshear Hall
515 Morrill Road
Ames, IA 50011

University of Northern Iowa
Office of the Operations Auditor
242 Gilchrist Hall
Cedar Falls, IA 50614

Iowa School for the Deaf
Superintendent
1600 S. Highway 275
Council Bluffs, IA 51503

19.3(2) Anticipated rule making. The rule-making docket shall list each anticipated rule-making proceeding. A rule-making proceeding is deemed “anticipated” from the time a draft of proposed rules is distributed for internal discussion within the board of regents between the board of regents and one or more regent institutions. For each anticipated rule-making proceeding the docket shall contain a listing of the precise subject matter which may be submitted for consideration by the board of regents for subsequent proposal under the provisions of Iowa Code section 17A.4(1) “a,” the name and address of board of regents personnel with whom persons may communicate with respect to the matter, and an indication of the present

status within the board of regents of that possible rule. The board of regents may also include in the docket other subjects upon which public comment is desired.

19.3(3) Pending rule-making proceedings. The rule-making docket shall list each pending rule-making proceeding. A rule-making proceeding is pending from the time it is commenced, by publication in the Iowa Administrative Bulletin of a Notice of Intended Action pursuant to Iowa Code section 17A.4(1) “a,” to the time it is terminated, by publication of a Notice of Termination in the Iowa Administrative Bulletin or the rule becoming effective. For each rule-making proceeding, the docket shall indicate:

- a. The subject matter of the proposed rule;
- b. A citation to all published notices relating to the proceeding;
- c. Where written submissions on the proposed rule may be inspected;
- d. The time during which written submissions may be made;
- e. The names of persons who have made written requests for an opportunity to make oral presentations on the proposed rule, where those requests may be inspected, and where and when oral presentations may be made;
- f. Whether a written request for the issuance of a regulatory analysis, or a concise statement of reasons, has been filed, whether such an analysis or statement or a fiscal impact statement has been issued, and where any such written request, analysis, or statement may be inspected;
- g. The current status of the proposed rule and any board of regents determinations with respect thereto;
- h. Any known timetable for board of regents decisions or other action in the proceeding;
- i. The date of the rule’s adoption;
- j. The date of the rule’s filing, indexing, and publication;
- k. The date on which the rule will become effective; and
- l. Where the rule-making record may be inspected.

[ARC 5952C, IAB 10/6/21, effective 11/10/21]

681—19.4(17A) Notice of proposed rule making.

19.4(1) Contents. At least 35 days before the adoption of a rule the board of regents shall cause Notice of Intended Action to be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:

- a. A brief explanation of the purpose of the proposed rule;
- b. The specific legal authority for the proposed rule;
- c. Except to the extent impracticable, the text of the proposed rule;
- d. Where, when, and how persons may present their views on the proposed rule; and
- e. Where, when, and how persons may demand an oral proceeding on the proposed rule if the notice does not already provide for one.

Where inclusion of the complete text of a proposed rule in the Notice of Intended Action is impracticable, the board of regents shall include in the notice a statement fully describing the specific subject matter of the omitted portion of the text of the proposed rule, the specific issues to be addressed by that omitted text of the proposed rule, and the range of possible choices being considered by the board of regents for the resolution of each of those issues.

19.4(2) Incorporation by reference. A proposed rule may incorporate other materials by reference only if it complies with all of the requirements applicable to the incorporation by reference of other materials in an adopted rule that are contained in subrule 19.12(2) of this chapter.

19.4(3) Copies of notices. Persons desiring to receive copies of future Notices of Intended Action by subscription must file, with the board of regents, a written request indicating the name and address to which such notices should be sent. Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the board of regents shall mail or electronically transmit a copy of that notice to subscribers who have filed a written request for either mailing or electronic transmittal with the board of regents for Notices of Intended Action. The written request shall be accompanied by payment of the subscription price which may cover the full cost of the subscription service, including its administrative overhead and the cost of copying and mailing the Notices of Intended Action for a period of one year.

681—19.5(17A) Public participation.

19.5(1) *Written comments.* For at least 20 days after publication of the Notice of Intended Action, persons may submit argument, data, and views, in writing, on the proposed rule. Such written submissions should identify the proposed rule to which they relate and should be submitted to the office of the Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322, or the person designated in the Notice of Intended Action.

19.5(2) *Oral proceedings.* The board of regents may, at any time, schedule an oral proceeding on a proposed rule. The board of regents shall schedule an oral proceeding on a proposed rule if, within 20 days after the published Notice of Intended Action, a written request for an opportunity to make oral presentations is submitted to the board of regents by the administrative rules review committee, a governmental subdivision, an agency, an association having not less than 25 members, or at least 25 persons. That request must also contain the following additional information:

a. A request by one or more individual persons must be signed by each of them and include the address and telephone number of each of them.

b. A request by an association must be signed by an officer or designee of the association and must contain a statement that the association has at least 25 members and the address and telephone number of the person signing that request.

c. A request by an agency or governmental subdivision must be signed by an official having authority to act on behalf of the entity and must contain the address and telephone number of the person signing that request.

19.5(3) *Conduct of oral proceedings.*

a. Applicability. This subrule applies only to those oral rule-making proceedings in which an opportunity to make oral presentations is authorized or required by Iowa Code section 17A.4(1) "b" as amended by 1998 Iowa Acts, chapter 1202, section 8, or this chapter.

b. Scheduling and notice. An oral proceeding on a proposed rule may be held in one or more locations and shall not be held earlier than 20 days after notice of its location and time is published in the Iowa Administrative Bulletin. That notice shall also identify the proposed rule by ARC number and citation to the Iowa Administrative Bulletin.

c. Presiding officer. The board of regents, a member of the board of regents, or another person designated by the board of regents who will be familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule. If the board of regents does not preside, the presiding officer shall prepare a memorandum for consideration by the board summarizing the contents of the presentations made at the oral proceeding unless the board determines that such a memorandum is unnecessary because the board will personally listen to or read the entire transcript of the oral proceeding. The board delegates to its executive director authority to conduct oral proceedings. The executive director may delegate to regent institution officials the responsibility to conduct proceedings relating to rules of that regent institution.

d. Conduct of proceeding. At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule. Persons wishing to make oral presentations at such a proceeding are encouraged to notify the board of regents at least one business day prior to the proceeding and indicate the general subject of their presentations. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer. Oral proceedings shall be open to the public and shall be recorded by stenographic or electronic means.

(1) At the beginning of the oral proceeding, the presiding officer shall give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons for the board of regents decision to propose the rule. The presiding officer may place time limitations on individual oral presentations when necessary to ensure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

(2) Persons making oral presentations are encouraged to avoid restating matters which have already been submitted in writing.

(3) To facilitate the exchange of information, the presiding officer may, where time permits, open the floor to questions or general discussion.

(4) The presiding officer shall have the authority to take any reasonable action necessary for the orderly conduct of the meeting.

(5) Physical and documentary submissions presented by participants in the oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the board of regents.

(6) The oral proceeding may be continued by the presiding officer to a later time without notice other than by announcement at the hearing.

(7) Participants in an oral proceeding shall not be required to take an oath or to submit to cross-examination. However, the presiding officer in an oral proceeding may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

(8) The presiding officer in an oral proceeding may permit rebuttal statements and request the filing of written statements subsequent to the adjournment of the oral presentations.

19.5(4) *Additional information.* In addition to receiving written comments and oral presentations on a proposed rule according to the provisions of this rule, the board of regents may obtain information concerning a proposed rule through any other lawful means deemed appropriate under the circumstances.

19.5(5) *Accessibility.* The board of regents shall schedule oral proceedings in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the office of the Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322, telephone (515)281-3934, in advance to arrange access or other needed services.

[ARC 5952C, IAB 10/6/21, effective 11/10/21]

681—19.6(17A) Regulatory analysis.

19.6(1) *Definition of small business.* A “small business” is defined in 1998 Iowa Acts, chapter 1202, section 10(7).

19.6(2) *Mailing list.* Small businesses or organizations of small businesses may be registered on the board of regents small business impact list by making a written application addressed to the office of the Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322. The application for registration shall state:

- a. The name of the small business or organization of small businesses;
- b. Its address;
- c. The name of a person authorized to transact business for the applicant;
- d. A description of the applicant’s business or organization. An organization representing 25 or more persons who qualify as a small business shall indicate that fact;
- e. Whether the registrant desires copies of Notices of Intended Action at cost, or desires advance notice of the subject of all or some specific category of proposed rule making affecting small business.

The board of regents may at any time request additional information from the applicant to determine whether the applicant is qualified as a small business or as an organization of 25 or more small businesses. The board of regents may periodically send a letter to each registered small business or organization of small businesses asking whether that business or organization wishes to remain on the registration list. The name of a small business or organization of small businesses will be removed from the list if a negative response is received, or if no response is received within 30 days after the letter is sent.

19.6(3) *Time of mailing.* Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the board of regents shall mail to all registered small businesses or organizations of small businesses, in accordance with their request, either a copy of the Notice of Intended Action or notice of the subject of that proposed rule making. In the case of a rule that may have an impact on small business adopted in reliance upon Iowa Code section 17A.4(2), the board of regents shall mail notice of the adopted rule to registered businesses or organizations prior to the time the adopted rule is published in the Iowa Administrative Bulletin.

19.6(4) *Qualified requesters for regulatory analysis—economic impact.* The board of regents shall issue a regulatory analysis of a proposed rule that conforms to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2a), after a proper request from:

- a. The administrative rules coordinator; or
- b. The administrative rules review committee.

19.6(5) *Qualified requesters for regulatory analysis—business impact.* The board of regents shall issue a regulatory analysis of a proposed rule that conforms to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2b), after a proper request from:

- a. The administrative rules review committee;
- b. The administrative rules coordinator;
- c. At least 25 or more persons who sign the request provided that each represents a different small business; or
- d. An organization representing at least 25 small businesses. That organization shall list the name, address and telephone number of not less than 25 small businesses it represents.

19.6(6) *Time period for analysis.* Upon receipt of a timely request for a regulatory analysis the board of regents shall adhere to the time lines described in 1998 Iowa Acts, chapter 1202, section 10(4).

19.6(7) *Contents of request.* A request for a regulatory analysis is made when it is mailed or delivered to the board of regents. The request shall be in writing and satisfy the requirements of 1998 Iowa Acts, chapter 1202, section 10(1).

19.6(8) *Contents of concise summary.* The contents of the concise summary shall conform to the requirements of 1998 Iowa Acts, chapter 1202, section 10(4,5).

19.6(9) *Publication of a concise summary.* The board of regents shall make available to the maximum extent feasible, copies of the published summary in conformance with 1998 Iowa Acts, chapter 1202, section 10(5).

19.6(10) *Regulatory analysis contents—rules review committee or rules coordinator.* When a regulatory analysis is issued in response to a written request from the administrative rules review committee, or the administrative rules coordinator, the regulatory analysis shall conform to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2a), unless a written request expressly waives one or more of the items listed in the section.

19.6(11) *Regulatory analysis contents—substantial impact on small business.* When a regulatory analysis is issued in response to a written request from the administrative rules review committee, the administrative rules coordinator, at least 25 persons signing that request who each qualify as a small business or by an organization representing at least 25 small businesses, the regulatory analysis shall conform to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2b).

[ARC 5952C, IAB 10/6/21, effective 11/10/21]

681—19.7(17A,25B) Fiscal impact statement.

19.7(1) A proposed rule that mandates additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services must be accompanied by a fiscal impact statement outlining the costs associated with the rule. A fiscal impact statement must satisfy the requirements of Iowa Code section 25B.6.

19.7(2) If the board of regents determines at the time it adopts a rule that the fiscal impact statement upon which the rule is based contains errors, the board of regents shall, at the same time, issue a corrected fiscal impact statement and publish the corrected fiscal impact statement in the Iowa Administrative Bulletin.

681—19.8(17A) Time and manner of rule adoption.

19.8(1) *Time of adoption.* The board of regents shall not adopt a rule until the period for making written submissions and oral presentations has expired. Within 180 days after the later of the publication of the Notice of Intended Action, or the end of oral proceedings thereon, the board of regents shall adopt a rule pursuant to the rule-making proceeding or terminate the proceeding by publication of a notice to that effect in the Iowa Administrative Bulletin.

19.8(2) *Consideration of public comment.* Before the adoption of a rule, the board of regents shall consider fully all of the written submissions and oral submissions received in that rule-making proceeding or any memorandum summarizing such oral submissions, and any regulatory analysis or fiscal impact statement issued in that rule-making proceeding.

19.8(3) *Reliance on board of regents expertise.* Except as otherwise provided by law, the board of regents may use its own experience, technical competence, specialized knowledge, and judgment in the adoption of a rule.

681—19.9(17A) Variance between adopted rule and published notice of proposed rule adoption.

19.9(1) The board of regents shall not adopt a rule that differs from the rule proposed in the Notice of Intended Action on which the rule is based unless:

a. The differences are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in that notice; and

b. The differences are a logical outgrowth of the contents of that Notice of Intended Action and the comments submitted in response thereto; and

c. The Notice of Intended Action provided fair warning that the outcome of that rule-making proceeding could be the rule in question.

19.9(2) In determining whether the Notice of Intended Action provided fair warning that the outcome of that rule-making proceeding could be the rule in question, the board of regents shall consider the following factors:

a. The extent to which persons who will be affected by the rule should have understood that the rule-making proceeding on which it is based could affect their interests;

b. The extent to which the subject matter of the rule or the issues determined by the rule are different from the subject matter or issues contained in the Notice of Intended Action; and

c. The extent to which the effects of the rule differ from the effects of the proposed rule contained in the Notice of Intended Action.

19.9(3) The board of regents shall commence a rule-making proceeding within 60 days of its receipt of a petition for rule making seeking the amendment or repeal of a rule that differs from the proposed rule contained in the Notice of Intended Action upon which the rule is based, unless the board of regents finds that the differences between the adopted rule and the proposed rule are so insubstantial as to make such a rule-making proceeding wholly unnecessary. A copy of any such finding and the petition to which it responds shall be sent to petitioner, the administrative rules coordinator, and the administrative rules review committee, within 3 days of its issuance.

19.9(4) Concurrent rule-making proceedings. Nothing in this rule disturbs the discretion of the board of regents to initiate, concurrently, several different rule-making proceedings on the same subject with several different published Notices of Intended Action.

681—19.10(17A) Exemptions from public rule-making procedures.

19.10(1) *Omission of notice and comment.* To the extent the board of regents for good cause finds that public notice and participation are unnecessary, impracticable, or contrary to the public interest in the process of adopting a particular rule, the board of regents may adopt that rule without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral public submissions prior to its adoption. The board of regents shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

19.10(2) *Categories exempt.* The following narrowly tailored categories of rules are exempted from the usual public notice and participation requirements because those requirements are unnecessary, impracticable, or contrary to the public interest with respect to each and every member of the defined class:

a. Rules relating to the care of patients or animals at medical or veterinary facilities operated by a regent institution, including rules regarding visitation and conduct of visitors at such facilities;

b. Rules relating to safety as applied to visitors in research laboratories, research farms and other research facilities;

c. Rules relating to the provision of educational services to persons not usually considered students, but who receive services like those available to students, such as conference attendees, persons receiving

outreach and extension services, athletic camp attendees, persons taking academic tests or receiving academic evaluation, and persons attending special academic programs tailored to persons not enrolled as students;

d. Specific rules relating to safety or crowd management at ceremonial, celebratory, athletic, artistic, musical and similar events at a regent institution as long as the institution has adopted by formal rule making the general rules of conduct at such events; and

e. Rules relating to the use by the general public of the regent institutions' computing equipment, networks, software, electronic information resources, databases and the like.

19.10(3) *Public proceedings on rules adopted without them.* The board of regents may, at any time, commence a standard rule-making proceeding for the adoption of a rule that is identical or similar to a rule it adopts in reliance upon subrule 19.10(1). Upon written petition by a governmental subdivision, the administrative rules review committee, an agency, the administrative rules coordinator, an association having not less than 25 members, or at least 25 persons, the board of regents shall commence a standard rule-making proceeding for any rule specified in the petition that was adopted in reliance upon subrule 19.10(1). Such a petition must be filed within one year of the publication of the specified rule in the Iowa Administrative Bulletin as an adopted rule. The rule-making proceeding on that rule must be commenced within 60 days of the receipt of such a petition. After a standard rule-making proceeding commenced pursuant to this subrule, the board of regents may either readopt the rule it adopted without benefit of all usual procedures on the basis of subrule 19.10(1), or may take any other lawful action, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.

681—19.11(17A) Concise statement of reasons.

19.11(1) *General.* When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the board of regents shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to the office of the Board of Regents, 100 Court Avenue, Des Moines, Iowa 50319. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

19.11(2) *Contents.* The concise statement of reasons shall contain:

- a.* The reasons for adopting the rule;
- b.* An indication of any change between the text of the proposed rule contained in the published Notice of Intended Action and the text of the rule as finally adopted, with the reasons for any such change;
- c.* The principal reasons urged in the rule-making proceeding for and against the rule, and the board of regents' reasons for overruling the arguments made against the rule.

19.11(3) *Time of issuance.* After a proper request, the board of regents shall issue a concise statement of reasons by the later of the time the rule is adopted or 35 days after receipt of the request.

681—19.12(17A) Contents, style, and form of rule.

19.12(1) *Contents.* Each rule adopted by the board of regents shall contain the text of the rule and, in addition:

- a.* The date the board of regents adopted the rule;
- b.* A brief explanation of the principal reasons for the rule-making action if such reasons are required by 1998 Iowa Acts, chapter 1202, section 8, or the board of regents in its discretion decides to include such reasons;
- c.* A reference to all rules repealed, amended, or suspended by the rule;
- d.* A reference to the specific statutory or other authority authorizing adoption of the rule;
- e.* Any findings required by any provision of law as a prerequisite to adoption or effectiveness of the rule;
- f.* A brief explanation of the principal reasons for the failure to provide for waivers to the rule if no waiver provision is included and a brief explanation of any waiver or special exceptions provided in the rule if such reasons are required by 1998 Iowa Acts, chapter 1202, section 8, or the board of regents in its discretion decides to include such reasons; and

g. The effective date of the rule.

19.12(2) *Incorporation by reference.* The board of regents may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code, standard, rule, or other matter if the board of regents finds that the incorporation of its text in the board of regents proposed or adopted rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the board of regents proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, if any; shall briefly indicate the precise subject and the general contents of the incorporated matter; and shall state that the proposed or adopted rule does not include any later amendments or editions of the incorporated matter. The board of regents may incorporate such matter by reference in a proposed or adopted rule only if the board makes copies of it readily available to the public. The rule shall state how and where copies of the incorporated matter may be obtained at cost from the board of regents, and how and where copies may be obtained from the agency of the United States, this state, another state, or the organization, association, or persons, originally issuing that matter. The board of regents shall retain permanently a copy of any materials incorporated by reference in a rule of the board of regents.

If the board of regents adopts standards by reference to another publication, it shall provide a copy of the publication containing the standards to the administrative rules coordinator for deposit in the state law library and may make the standards available electronically.

19.12(3) *References to materials not published in full.* When the administrative code editor decides to omit the full text of a proposed or adopted rule because publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient, the board of regents shall prepare and submit to the administrative code editor for inclusion in the Iowa Administrative Bulletin and Iowa Administrative Code a summary statement describing the specific subject matter of the omitted material. This summary statement shall include the title and a brief description sufficient to inform the public of the specific nature and subject matter of the proposed or adopted rules, and of significant issues involved in these rules. The summary statement shall also describe how a copy of the full text of the proposed or adopted rule, including any unpublished matter and any matter incorporated by reference, may be obtained from the board of regents. The board will provide a copy of that full text at actual cost upon request and shall make copies of the full text available for review at the state law library and may make the standards available electronically.

At the request of the administrative code editor, the board of regents shall provide a proposed statement explaining why publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient.

19.12(4) *Style and form.* In preparing its rules, the board of regents shall follow the uniform numbering system, form, and style prescribed by the administrative rules coordinator.

681—19.13(17A) Board of regents rule-making record.

19.13(1) *Requirement.* The board of regents shall maintain an official rule-making record for each rule it proposes by publication in the Iowa Administrative Bulletin of a Notice of Intended Action, or adopts. The rule-making record and materials incorporated by reference must be available for public inspection.

19.13(2) *Contents.* The board of regents rule-making record shall contain:

a. Copies of all publications in the Iowa Administrative Bulletin with respect to the rule or the proceeding upon which the rule is based and any file-stamped copies of board of regents submissions to the administrative rules coordinator concerning that rule or the proceeding upon which it is based;

b. Copies of any portions of the board of regents public rule-making docket containing entries relating to the rule or the proceeding upon which the rule is based;

c. All written petitions, requests, and submissions received by the board of regents, and all other written materials of a factual nature as distinguished from opinion that are relevant to the merits of the rule and that were created or compiled by the board of regents and considered by the board in connection with the formulation, proposal, or adoption of the rule or the proceeding upon which the rule is based, except to the extent the board of regents is authorized by law to keep them confidential; provided, however, that

when any such materials are deleted because they are authorized by law to be kept confidential, the board of regents shall identify in the record the particular materials deleted and state the reasons for that deletion;

d. Any official transcript of oral presentations made in the proceeding upon which the rule is based or, if not transcribed, the stenographic record or electronic recording of those presentations, and any memorandum prepared by a presiding officer summarizing the contents of those presentations;

e. A copy of any regulatory analysis or fiscal impact statement prepared for the proceeding upon which the rule is based;

f. A copy of the rule and any concise statement of reasons prepared for that rule;

g. All petitions for amendment or repeal or suspension of the rule;

h. A copy of any objection to the issuance of that rule without public notice and participation that was filed pursuant to Iowa Code section 17A.4(2) by the administrative rules review committee, the governor, or the attorney general;

i. A copy of any objection to the rule filed by the administrative rules review committee, the governor, or the attorney general pursuant to Iowa Code section 17A.4(4), and any board of regents response to that objection;

j. A copy of any significant written criticism of the rule, including a summary of any petitions for waiver of the rule; and

k. A copy of any executive order concerning the rule.

19.13(3) *Effect of record.* Except as otherwise required by a provision of law, the board of regents rule-making record required by this rule need not constitute the exclusive basis for board of regents action on that rule.

19.13(4) *Maintenance of record.* The board of regents shall maintain the rule-making record for a period of not less than five years from the later of the date the rule to which it pertains became effective, the date of the Notice of Intended Action or the date of any written criticism as described in 19.13(2) “g,” “h,” “i,” or “j.”

681—19.14(17A) Filing of rules. The board of regents shall file each rule it adopts in the office of the administrative rules coordinator. The filing must be executed as soon after adoption of the rule as is practicable. At the time of filing, each rule must have attached to it any fiscal impact statement and any concise statement of reasons that was issued with respect to that rule. If a fiscal impact statement or statement of reasons for that rule was not issued until a time subsequent to the filing of that rule, the note or statement must be attached to the filed rule within five working days after the note or statement is issued. In filing a rule, the board of regents shall use the standard form prescribed by the administrative rules coordinator.

681—19.15(17A) Effectiveness of rules prior to publication.

19.15(1) *Grounds.* The board of regents may make a rule effective after its filing at any stated time prior to 35 days after its indexing and publication in the Iowa Administrative Bulletin if it finds that a statute so provides, the rule confers a benefit or removes a restriction on some segment of the public, or that the effective date of the rule is necessary to avoid imminent peril to the public health, safety, or welfare. The board of regents shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

19.15(2) *Special notice.* When the board of regents makes a rule effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2) “b” (3), the board shall employ all reasonable efforts to make its contents known to the persons who may be affected by that rule prior to the rule’s indexing and publication. The term “all reasonable efforts” requires the board of regents to employ the most effective and prompt means of notice rationally calculated to inform potentially affected parties of the effectiveness of the rule that is justified and practical under the circumstances considering the various alternatives available for this purpose, the comparative costs to the board of regents of utilizing each of those alternatives, and the harm suffered by affected persons from any lack of notice concerning the contents of the rule prior to its indexing and publication. The means that may be used for providing notice of such rules prior to their indexing and publication include, but are not limited to, any one or more of the following means: radio, newspaper, television, signs, mail, telephone, personal notice or electronic means.

A rule made effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2)“b”(3) shall include in that rule a statement describing the reasonable efforts that will be used to comply with the requirements of this subrule.

681—19.16(17A) General statements of policy.

19.16(1) *Compilation, indexing, public inspection.* The board of regents shall maintain an official, current, and dated compilation that is indexed by subject, containing all of its general statements of policy within the scope of Iowa Code section 17A.2(10)“a,” “c,” “f,” “g,” “h,” and “k.” Each addition to, change in, or deletion from the official compilation must also be dated, indexed, and a record thereof kept. Except for those portions containing rules governed by Iowa Code section 17A.2(7)“f,” or otherwise authorized by law to be kept confidential, the compilation must be made available for public inspection and copying.

19.16(2) *Compilation at each regent institution.* Each regent institution shall maintain an official, current, and dated compilation that is indexed by subject, containing all of its general statements of policy within the scope of Iowa Code section 17A.2(10)“a,” “c,” “f,” “g,” “h,” and “k.” Each addition to, change in, or deletion from the official compilation must also be dated, indexed, and a record thereof kept. Except for those portions containing rules governed by Iowa Code section 17A.2(7)“f,” or otherwise authorized by law to be kept confidential, the compilation must be made available for public inspection and copying.

19.16(3) *Enforcement of requirements.* A general statement of policy subject to the requirements of this subrule shall not be relied on by the board of regents to the detriment of any person who does not have actual, timely knowledge of the contents of the statement until the requirements of subrule 19.16(2) or, with respect to a general statement of policy adopted by a regent institution, until the requirements of subrule 19.16(2) are satisfied. This provision is inapplicable to the extent necessary to avoid imminent peril to the public health, safety, or welfare.

681—19.17(17A) Review of rules by board of regents.

19.17(1) Any interested person, association, agency, or political subdivision may submit a written request to the administrative rules coordinator requesting the board of regents to conduct a formal review of a specified rule. Upon approval of that request by the administrative rules coordinator, the board of regents shall conduct a formal review of a specified rule to determine whether a new rule should be adopted or the rule should be amended or repealed. The board of regents may refuse to conduct a review if it has conducted such a review of the specified rule within five years prior to the filing of the written request.

19.17(2) In conducting the formal review, the board of regents shall prepare, within a reasonable time, a written report summarizing its findings, its supporting reasons, and any proposed course of action. The report must include a concise statement of the board of regents’ findings regarding the rule’s effectiveness in achieving its objectives, including a summary of any available supporting data. The report shall also concisely describe significant written criticisms of the rule received during the previous five years, including a summary of any petitions for waiver of the rule received by the board of regents or granted by the board of regents. The report shall describe alternative solutions to resolve the criticisms of the rule, the reasons any were rejected, and any changes made in the rule in response to the criticisms as well as the reasons for the changes. A copy of the board of regents’ report shall be sent to the administrative rules review committee and the administrative rules coordinator. The report must also be available for public inspection.

681—19.18(17A) Waiver from rule.

19.18(1) *Applicability.* Waiver from board of regents rules may be requested but only in the event that:

a. The board of regents has exclusive rule-making authority to promulgate the rule from which a waiver is requested or has final decision-making authority over a contested case in which a waiver is requested; and

b. No federal or state statute or rule otherwise controls the grant of a waiver from the rule from which a waiver is requested.

19.18(2) Authority. The board of regents, the president or superintendent of a regent institution, or designee, or the presiding officer as part of the decision in a contested case, may grant a waiver of all or part of a rule to the extent allowed by these rules.

19.18(3) Compliance with law. No waiver may be granted from a requirement that is imposed by state or federal statute. Any waiver must be consistent with state or federal statute.

19.18(4) Criteria. A waiver under this chapter may be granted only upon a showing that:

a. The waiver will not harm other persons and will not adversely affect the public interest; and
b. There are exceptional circumstances which justify an exception to the general rule to the extent that the requester is unable to comply with the particular rule without undue hardship or compliance with the particular rule would be unnecessarily and unreasonably costly and serve no public benefit.

19.18(5) Request. All requests for a waiver must be in writing and shall include the following information:

a. The name, address, and telephone number of the person requesting the waiver and the person's representative, if any;
b. The specific rule from which a waiver is requested;
c. The nature of the waiver requested, including any alternative means or other proposed condition or modification proposed to achieve the purpose of the rule;
d. An explanation of the reason for the waiver, including all material facts relevant to the grant of the waiver in question;
e. Any information known to the requester regarding the board of regents, or any regent institution's, treatment of similar cases;
f. The name, address and telephone number of any person(s) with knowledge of the matter with respect to which the waiver is requested; and
g. Any necessary release of information authorizing persons with knowledge to disclose relevant information necessary to a decision.

19.18(6) With whom filed. A request for a waiver which pertains to a rule applicable to only a specific regent institution shall be submitted to the president or superintendent of that institution. A request for a waiver which pertains to a matter involving more than one regent institution, or the board of regents or its staff, shall be submitted to the Executive Director, Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322. A request for waiver or variance which pertains to a pending contested case shall be filed in the contested case proceedings.

19.18(7) Ruling. Rulings on requests shall be in writing. The ruling shall include the reason for granting or denying the request and, if approved, the time period during which the waiver is effective. Rulings on a waiver shall be made in the following manner:

a. Requests submitted to the president or superintendent of a regent institution shall be decided by the president or superintendent, or designee.
b. Requests submitted to the board of regents shall be decided by the board, unless the board determines that the request was inappropriately submitted to it, in which case it shall forward the request to the appropriate decision maker as designated by these rules.
c. Requests submitted in a contested case shall be decided by the presiding officer in the contested case proceeding.

19.18(8) Public availability. All final rulings in response to requests for waivers shall be indexed and available to members of the public at the offices listed below:

Board of Regents
11260 Aurora Avenue
Urbandale, IA 50322

University of Iowa
Office of University Relations
5 Old Capitol
Iowa City, IA 52242

Iowa State University

Office of University Counsel
3550 Beardshear Hall
515 Morrill Road
Ames, IA 50011

University of Northern Iowa
Office of the Operations Auditor
242 Gilchrist Hall
Cedar Falls, IA 50614

Iowa School for the Deaf
Superintendent
1600 S. Highway 275
Council Bluffs, IA 51503

19.18(9) *Conditions.* The board of regents, or other designated decision maker allowed pursuant to these rules, may condition the grant of a waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

19.18(10) *Voiding or cancellation.* A waiver is void if the material facts upon which the request is based are not true or if material facts have been withheld. The decision maker may at any time cancel a waiver upon appropriate notice and hearing if it is determined that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver have failed to achieve the objectives of the statute, or the requester has failed to comply with conditions set forth in the waiver approval.

19.18(11) *Violations.* Violation of conditions in the waiver approval is the equivalent of violation of the particular rule for which the waiver is granted and is subject to the same remedies or penalties.

19.18(12) *Appeals.* Any request for an appeal from a decision on a waiver request made by the board of regents, the president or superintendent of a regent institution, or designee, shall be in accordance with the procedures provided in Iowa Code chapter 17A.

Any request for an appeal from a decision by the presiding officer in a contested case proceeding which grants or denies a waiver shall be made pursuant to the procedures provided in rule 681—20.26(17A) or 681—20.27(17A), as applicable.

[ARC 5952C, IAB 10/6/21, effective 11/10/21]

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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CHAPTER 20
CONTESTED CASES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

681—20.1(17A) Scope and applicability. This chapter applies to contested case proceedings conducted by the board of regents.

681—20.2(17A) Definitions. Except where otherwise specifically defined by law:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under 1998 Iowa Acts, chapter 1202, section 14.

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“*Party*” means each person or the regent institution or board of regents named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*Presiding officer*” means the administrative law judge, the board of regents or subcommittee of the board of regents.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the board of regents did not preside.

681—20.3(17A) Time requirements.

20.3(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

20.3(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

681—20.4(17A) Requests for contested case proceeding. Any person claiming an entitlement to a contested case proceeding shall file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the board of regents or regent institution action in question.

The request for a contested case proceeding should state the name and address of the requester, identify the specific agency action which is disputed, and where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved, and include a short and plain statement of the issues of material fact in dispute.

681—20.5(17A) Notice of hearing.

20.5(1) *Delivery.* Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Certified mail, return receipt requested; or
- c. First-class mail; or
- d. Publication, as provided in the Iowa Rules of Civil Procedure; or
- e. In the case of a student residing in facilities of a regent institution, by leaving a copy in the student’s mailbox at the student’s residence hall or apartment.

20.5(2) *Contents.* The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matters asserted. If the board of regents or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement

of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;

- e.* Identification of all parties including the name, address and telephone number of the person who will act as advocate for the board of regents or the regent institution and of parties' counsel where known;
- f.* Reference to the procedural rules governing conduct of the contested case proceeding;
- g.* Reference to the procedural rules governing informal settlement;
- h.* Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer; and
- i.* Notification of the time period in which a party may request, pursuant to 1998 Iowa Acts, chapter 1202, section 15(1), and rule 20.6(17A), that the presiding officer be an administrative law judge.

681—20.6(17A) Presiding officer.

20.6(1) Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of a notice of hearing which identifies or describes the presiding officer as the board of regents head or members of the board of regents.

20.6(2) The board of regents may deny the request only upon a finding that one or more of the following apply:

- a.* Neither the board of regents nor any officer of the board of regents under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.
- b.* There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- c.* An administrative law judge with the qualifications identified in subrule 20.6(4) is unavailable to hear the case within a reasonable time.
- d.* The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- e.* The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- f.* Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.
- g.* The request was not timely filed.
- h.* The request is not consistent with a specified statute.

20.6(3) The board of regents or its executive director shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 20.6(4), the parties shall be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

20.6(4) An administrative law judge assigned to act as presiding officer in a case involving discipline or discharge of a faculty member at one of the universities, or discipline or discharge of a student for academic dishonesty at one of the universities shall have the following technical expertness unless waived by the board of regents: an advanced degree showing scholarly achievement, such as a doctor of philosophy degree, or knowledge of academic traditions and methods of teaching and research at institutions of higher education in the United States.

20.6(5) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the board of regents, or in a case involving a matter arising from a regent institution, the president or superintendent of that institution. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

20.6(6) Unless otherwise provided by law, the board of regents, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

681—20.7(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board of regents, in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

When a regent institution provides for procedures for handling contested case matters in any handbook or policy guide, the board of regents and the regent institutions consent to the use of the procedures therein and waive these rules. If a party does not consent to the use of the institutional procedures, or has elected use of formal proceedings under the Iowa administrative procedure Act (Iowa Code chapter 17A) instead of institutional procedures, the board of regents will normally not waive the provisions of this chapter.

681—20.8(17A) Telephone proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. The presiding officer, for good cause, and upon request of a party, may permit the party to present witness testimony by telephone or remote video so long as the parties and their representatives have substantially the same opportunity to hear and observe the witness testimony.

681—20.9(17A) Disqualification.

20.9(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f. Has a spouse or relative within the third degree of relationship that (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

20.9(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17(3) and subrules 20.9(3) and 20.23(9).

20.9(3) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

20.9(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 20.9(1), the party shall file a motion supported by an affidavit pursuant to 1998 Iowa Acts, chapter 1202, section 19(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 20.24(17A) and seek a stay under rule 20.29(17A).

681—20.10(17A) Consolidation—severance.

20.10(1) Consolidation. The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

20.10(2) Severance. The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

681—20.11(17A) Pleadings.

20.11(1) Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

20.11(2) Petition.

a. Any petition required in a contested case proceeding shall be filed, within 20 days of delivery of the notice of hearing or subsequent order of the presiding officer, unless otherwise ordered.

b. A petition shall state in separately numbered paragraphs the following:

- (1) The persons or entities on whose behalf the petition is filed;
- (2) The particular provisions of statutes and rules involved;
- (3) The relief demanded and the facts and law relied upon for such relief; and
- (4) The name, address and telephone number of the petitioner and the petitioner's attorney, if any.

20.11(3) Answer. An answer shall be filed within 20 days of service of the petition unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

Any allegation in the petition not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

20.11(4) Amendment. Any notice of hearing, petition, or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

681—20.12(17A) Service and filing of pleadings and other papers.

20.12(1) When service required. Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the state or the board of regents, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

20.12(2) Service—how made. Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

20.12(3) Filing—when required. After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the presiding officer, at the address provided in notices to the parties. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the board of regents or, in the case of a matter arising from one of the regent institutions, the president's or superintendent's office of the regent institution.

20.12(4) Filing—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board of regents or as appropriate, the president's or superintendent's office, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

20.12(5) Proof of mailing. Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (office and address) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

681—20.13(17A) Discovery.

20.13(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

20.13(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 20.13(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

20.13(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

681—20.14(17A) Subpoenas.

20.14(1) Issuance.

a. A board of regents subpoena shall be issued to a party on request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

20.14(2) Motion to quash or modify. The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

681—20.15(17A) Motions.

20.15(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

20.15(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the board of regents or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

20.15(3) The presiding officer may schedule oral argument on any motion.

20.15(4) Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least ten days (or other time period designated by the board of regents) prior to the date of hearing

unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board of regents or an order of the presiding officer.

20.15(5) Motions for summary judgment. Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 237 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment must be filed and served at least 30 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within 10 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission shall be not less than 20 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 20.28(17A) and appeal pursuant to rules 20.28(17A) and 20.26(17A).

681—20.16(17A) Prehearing conference. Prehearing conferences may be ordered at the discretion of the presiding officer.

681—20.17(17A) Continuances. Unless otherwise provided, applications for continuances shall be made to the presiding officer.

20.17(1) A written application for a continuance shall:

- a. Be made at the earliest possible time and no less than seven days (or other time period designated by the board of regents) before the hearing except in case of unanticipated emergencies;
- b. State the specific reasons for the request; and
- c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible. The board of regents may waive notice of such requests for a particular case or an entire class of cases.

20.17(2) In determining whether to grant a continuance, the presiding officer may consider:

- a. Prior continuances;
- b. The interests of all parties;
- c. The likelihood of informal settlement;
- d. The existence of an emergency;
- e. Any objection;
- f. Any applicable time requirements;
- g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h. The timeliness of the request; and
- i. Other relevant factors.

The presiding officer may require documentation of any grounds for continuance.

681—20.18(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing only in accordance with board of regents rules. Unless otherwise provided, a withdrawal shall be with prejudice.

681—20.19(17A) Hearing procedures.

20.19(1) The presiding officer presides at the hearing and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

20.19(2) All objections shall be timely made and stated on the record.

20.19(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any

member, officer, director, or duly authorized agent. Any party may be represented by an attorney or another person authorized by law.

20.19(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

20.19(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

20.19(6) Witnesses may be sequestered during the hearing.

20.19(7) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

20.19(8) As provided by rule 20.8(17A), witness testimony may be taken by telephone or remote video at the discretion of the presiding officer.

681—20.20(17A) Evidence.

20.20(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

20.20(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

20.20(3) Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

20.20(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

20.20(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

20.20(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

681—20.21(17A) Default.

20.21(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

20.21(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

20.21(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 20.26(17A) or 20.27(17A). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

20.21(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

20.21(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

20.21(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 236.

20.21(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 20.24(17A).

20.21(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

20.21(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues except, unless the defaulting party has appeared, it cannot exceed the relief demanded.

20.21(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 20.29(17A).

681—20.22(17A) Ex parte communication.

20.22(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the board of regents or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 20.9(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

20.22(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

20.22(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

20.22(4) To avoid prohibited ex parte communications notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 20.12(17A) and may be supplemented by telephone, facsimile, electronic

mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

20.22(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

20.22(6) The executive director or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 20.22(1).

20.22(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 20.17(17A).

20.22(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

20.22(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

20.22(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule, including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the board of regents. Violation of ex parte communication prohibitions by board of regents personnel shall be reported to the executive director of the board of regents for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

681—20.23(17A) Recording costs. Upon request, the board of regents shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of that recordation, unless otherwise provided by law.

681—20.24(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board of regents may review an interlocutory order of the presiding officer. In determining whether to do so, the board of regents shall weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the board of regents at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within five days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

681—20.25(17A) Final decision.

20.25(1) When the board of regents presides over the reception of evidence at the hearing, its decision is a final decision.

20.25(2) When the board of regents does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the board of regents without further proceedings unless there is an appeal to, or review on motion of, the president, the superintendent or the board of regents within the times provided in rules 20.26(17A) and 20.27(17A).

681—20.26(17A) Appeals and review—actions by regent institution.

20.26(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision in a case involving an appeal of action or proposed action by a regent institution, to the president or superintendent of the regent institution within 20 days after issuance of the proposed decision.

20.26(2) *Review.* The president or superintendent of the regent institution may initiate review of a proposed decision on the president or superintendent's own motion at any time within 20 days following the issuance of such a decision.

20.26(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the president or superintendent. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

20.26(4) *Requests to present additional evidence.* A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 10 days of service of the notice of appeal. The president or superintendent may either remand a case to the presiding officer for further hearing or may preside at the taking of additional evidence.

20.26(5) *Scheduling.* The president or superintendent shall issue a schedule for consideration of the appeal.

20.26(6) *Briefs and arguments.* Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The president or superintendent has the discretion to resolve the appeal on the briefs or provide an opportunity for oral argument. The president or superintendent may shorten or extend the briefing period as appropriate.

681—20.27(17A) Appeals to the board of regents.

20.27(1) *Appeal by party.* Any adversely affected party may appeal the president or superintendent's decision to the board of regents within 10 days after issuance of the decision. In the case of an appeal of initial action by the board of regents, any adversely affected party may appeal the proposed order of a presiding officer to the board of regents within 20 days after issuance of the proposed decision.

20.27(2) *Review.* The board of regents may initiate review of the president or superintendent's decision or a proposed decision involving an appeal of board of regents action on its own motion at any time within 20 days following the issuance of such a decision.

20.27(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the board of regents. In cases of appeals of action by an institution, a copy of the notice shall be sent to the president or superintendent of the regent institution. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;

- d. The relief sought;
- e. The grounds for relief.

20.27(4) Requests to present additional evidence. In a case which has not been reviewed by a regent institution president or superintendent, a party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 10 days of service of the notice of appeal. The board of regents, or its executive director, may remand a case to the president or superintendent for further hearing or it may preside at the taking of additional evidence.

20.27(5) Scheduling. The board of regents, or its executive director, shall issue a schedule for consideration of the appeal.

20.27(6) Briefs and arguments. Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The board of regents has the discretion to resolve the appeal on the briefs or provide an opportunity for oral argument. The board of regents, or its executive director, may shorten or extend the briefing period as appropriate.

681—20.28(17A) Applications for rehearing.

20.28(1) By whom filed. Any party to a contested case proceeding may file an application for rehearing from a final order.

20.28(2) Content of application. The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the board of regents decision on the existing record and whether, on the basis of the grounds enumerated in subrule 20.26(4), the applicant requests an opportunity to submit additional evidence.

20.28(3) Time of filing. The application shall be filed with the board of regents within 20 days after issuance of the final decision.

20.28(4) Notice to other parties. A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board of regents shall serve copies on all parties.

20.28(5) Disposition. Any application for a rehearing shall be deemed denied unless the board of regents grants the application within 20 days after its filing.

681—20.29(17A) Stays of board of regents actions.

20.29(1) When available.

a. Any party to a contested case proceeding may petition the board of regents for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board of regents. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The board of regents may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the board of regents for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

20.29(2) When granted. In determining whether to grant a stay, the presiding officer or board of regents shall consider the factors listed in 1998 Iowa Acts, chapter 1202, section 23(5c).

20.29(3) Vacation. A stay may be vacated by the issuing authority upon application of the board of regents or any other party.

681—20.30(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly

submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

681—20.31(17A) Emergency adjudicative proceedings.

20.31(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare and, consistent with the Constitution and other provisions of law, the board of regents may issue a written order in compliance with Iowa Code section 17A.18 to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board of regents by emergency adjudicative order. Before issuing an emergency adjudicative order the board of regents shall consider factors including, but not limited to, the following:

- a. Whether there has been a sufficient factual investigation to ensure that the board of regents is proceeding on the basis of reliable information;
- b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;
- c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and
- e. Whether the specific action contemplated by the board of regents is necessary to avoid the immediate danger.

20.31(2) *Issuance of order.*

- a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board of regents' decision to take immediate action.
- b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:
 - (1) Personal delivery;
 - (2) Certified mail, return receipt requested, to the last address on file with the board of regents;
 - (3) Certified mail to the last address on file with the board of regents;
 - (4) First-class mail to the last address on file with the board of regents; or
 - (5) Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board of regents orders be sent by fax and has provided a fax number for that purpose.
- c. To the degree practicable, the board of regents shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

20.31(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board of regents shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

20.31(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the board of regents shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger. Issuance of a written emergency adjudicative order shall include notification of the date on which board of regents proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further board of regents proceedings to a later date will be granted only in compelling circumstances upon application in writing.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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