

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

[Prior to 11/5/86, Public Employment Relations Board [660]]

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CHAPTER 1
GENERAL PROVISIONS

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

621—1.1(20) Construction and severability. These rules shall be liberally construed to effectuate the purposes and provisions of the public employment relations Act. If any provisions of these rules are held to be invalid, it shall not be construed to invalidate any of the other provisions of these rules.

621—1.2(20) General agency description. The purpose of the public employment relations board established by the Public Employment Relations Act is to implement the provisions of the Act and adjudicate and conciliate employment related cases involving the state of Iowa and other public employers and employee organizations. For these purposes the powers and duties of the board include, but are not limited to, the following:

Determining appropriate bargaining units and conducting representation elections.

Adjudicating prohibited practice complaints and fashioning appropriate remedial relief for violations of the Act.

Adjudicating and serving as arbitrators regarding state merit system grievances and grievances arising under collective bargaining agreements between public employers and certified employee organizations.

Providing mediators and arbitrators to resolve impasses in negotiations.

Collecting and disseminating information concerning the wages, hours, and other conditions of employment of public employees.

Preparing legal briefs and presenting oral arguments in the district courts, the court of appeals and the supreme court in cases affecting the board.

[ARC 8953B, IAB 7/28/10, effective 9/1/10]

621—1.3(20) General course and method of operation. Upon receipt of a petition or complaint, the board may assign an administrative law judge to process the case. The board may determine that the petition or complaint is without basis and dismiss it without further proceedings. Petitions and complaints not dismissed are assigned for a hearing before either an administrative law judge or the board, unless the procedures for informal settlement described in these rules are followed. The administrative law judge or the board will conduct a hearing on the complaint or petition and issue a decision and order. The decisions of administrative law judges are appealable to the board, and final orders and decisions of the board are appealable to the district court under the Iowa administrative procedure Act.

621—1.4(20) Method of obtaining information and making submissions or requests. Any person may obtain information from, make submission to, or make a request of the board by writing to Chairperson, Iowa Public Employment Relations Board, 510 East 12th Street, Suite 1B, Des Moines, Iowa 50319.

621—1.5(20) Petition for rule making. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—1.6(20) Definitions.

1.6(1) “Act” as used in these rules shall mean the public employment relations Act, Iowa Code chapter 20.

1.6(2) “Board” as used in these rules shall mean the public employment relations board. No official board action may be taken without the concurrence of at least two members of the board; provided, however, that when for compelling reasons only two members hear an appeal of a proposed decision in a contested case and the two members do not concur, the result shall be affirmation of the proposed decision. The board, in its discretion, may delegate to board employees duties which the Act does not specifically require be performed by the board.

1.6(3) *Petitioner—complainant—respondent—intervenor.*

a. “Petitioner” means the party filing a petition under Iowa Code section 20.13 or 20.14.

b. “*Complainant*” means the party filing a complaint under Iowa Code section 20.11, alleging the commission of a prohibited practice.

c. “*Respondent*” means the party accused of committing a prohibited practice.

d. “*Intervenor*” means a party who voluntarily interposes in a proceeding with the approval of the board or administrative law judge.

1.6(4) “*Party*” as used in these rules shall mean any person, employee organization or public employer who has filed a petition or complaint under the Act or these rules; who has been named as a party in a complaint, petition or other matter under these rules; or whose motion to intervene has been granted by the board.

1.6(5) “*Impasse item*” means any term which was a subject of negotiations and proposed to be included in a collective bargaining agreement upon which the parties have failed to reach agreement in the course of negotiations, except as provided for in 621—6.1(20). Failure of the parties to agree upon impasse procedures shall not constitute an impasse item or compel implementation of impasse procedures.

1.6(6) “*Impasse procedures*” means either the procedures set forth in Iowa Code sections 20.20 and 20.22 or any procedures agreed upon by the parties pursuant to Iowa Code section 20.19 which are designed to result in a binding collective bargaining agreement.

1.6(7) “*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.

1.6(8) “*Adjudicatory proceeding*” means a contested case, a proceeding that may culminate in a contested case, a petition for declaratory order, a petition for expedited resolution of a negotiability dispute, or any other proceeding which may require the board or its designee to issue a decision, order, or ruling.

1.6(9) “*Agency*” as used in these rules means the public employment relations board and the board’s employees.

1.6(10) “*Confidential information*” means information excluded from public access by federal or state law or administrative rule, court rule, court or administrative order, or case law.

1.6(11) “*Protected information*” means personal information, the nature of which warrants protection from unlimited public access, including:

- a. Social security numbers.
- b. Financial account numbers.
- c. Dates of birth.
- d. Names of minor children.
- e. Individual taxpayer identification numbers.
- f. Personal identification numbers.
- g. Other unique identifying numbers.
- h. Confidential information.

1.6(12) “*Public safety employee*” means a public employee who is employed as one of the following:

a. A sheriff’s regular deputy.

b. A marshal or police officer of a city, township, or special-purpose district or authority who is a member of a paid police department.

c. A member, except a non-peace officer member, of the division of state patrol, narcotics enforcement, state fire marshal, or criminal investigation, including but not limited to a gaming enforcement officer, who has been duly appointed by the department of public safety in accordance with Iowa Code section 80.15.

d. A conservation officer or park ranger as authorized by Iowa Code section 456A.13.

e. A permanent or full-time fire fighter of a city, township, or special-purpose district or authority who is a member of a paid fire department.

f. A peace officer designated by the department of transportation under Iowa Code section 321.477 who is subject to mandated law enforcement training.

1.6(13) “*Public safety unit*” means a bargaining unit with at least 30 percent of employees in the unit who are public safety employees or as required by Iowa Code section 20.32 for certain transit employees.

1.6(14) “*Supplemental pay*” means a payment of moneys or other thing of value that is in addition to compensation received pursuant to any other permitted subject of negotiation specified in Iowa Code section 20.9 and is related to the employment relationship.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—1.7(20) Computation of time. Time periods established by these rules shall be computed pursuant to Iowa Code section 4.1(34).

621—1.8(20,279) Fees of neutrals. See rule 621—14.4(2).

621—1.9(17A,20) Waiver of rules. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—1.10(20) Agency record and files.

1.10(1) Agency record. The official agency record for all adjudicatory proceedings includes the following:

- a. Electronic files maintained in the agency’s electronic document management system;
- b. Paper documents maintained by the agency in paper form when permitted by the board’s order; and
- c. Exhibits and other materials filed with or delivered to and maintained by the agency as part of the case file.

1.10(2) Paper case files. Except as otherwise provided in the agency’s rules or directed by the board, the agency will not maintain paper case files in adjudicatory proceedings filed on or after January 1, 2015.

[ARC 1583C, IAB 8/20/14, effective 9/24/14]

These rules are intended to implement Iowa Code section 17A.9A and chapter 20.

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[Filed ARC 1642C (Notice ARC 1570C, IAB 8/6/14), IAB 10/1/14, effective 11/5/14]

[Filed Emergency ARC 3278C, IAB 8/30/17, effective 8/10/17]

[Filed ARC 4457C (Notice ARC 4365C, IAB 3/27/19), IAB 5/22/19, effective 6/26/19]

[Filed ARC 5631C (Notice ARC 5534C, IAB 3/24/21), IAB 5/19/21, effective 6/23/21]

[Content rescinded by 2026 Iowa Acts, Senate File 2463, section 4—editorially removed in IAC Supplement 7/8/26, effective 7/1/26]

CHAPTER 2
GENERAL PRACTICE AND HEARING PROCEDURES

Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026. See Uniform Rules on Agency Procedure at 7—Chapters 2500 through 2506 and any corresponding rules adopted by this agency.

CHAPTER 3
PROHIBITED PRACTICE PROCEEDINGS

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

621—3.1(20) Filing of complaint. A complaint that any public employer, public employee or employee organization has committed a prohibited practice within the meaning of Iowa Code section 20.10(1), that any public employer or the employer's designated representative has committed a prohibited practice within the meaning of Iowa Code section 20.10(2), or that any public employee, employee organization, person, union or organization or its agents have committed a prohibited practice within the meaning of Iowa Code section 20.10(3) may be filed with the agency by any person, employee organization or public employer with standing within 90 days following the alleged commission of the prohibited practice.

[ARC 1773C, IAB 12/10/14, effective 1/14/15]

621—3.2(20) Contents of complaint. The complaint, which may utilize the form available from the board's Web site, shall be in writing, shall be signed by the complainant or its designated representative, and shall include the following:

3.2(1) The name, address, telephone number and e-mail address of the complainant, and, if filed by the complainant's designated representative, the name, title, telephone number and e-mail address of that representative.

3.2(2) The name and address of the respondent(s) alleged to have committed the prohibited practice.

3.2(3) A clear and concise statement of the facts constituting the alleged prohibited practice, including the names of the individuals involved in the alleged act(s), the date(s) and place(s) of the alleged act(s), and the specific subsection(s) and paragraph(s) of Iowa Code section 20.10 alleged to have been violated.

[ARC 1773C, IAB 12/10/14, effective 1/14/15]

621—3.3(20) Clarification of complaint. Although compliance with technical rules of pleading is not required, the agency may, on either its own motion or motion of the respondent, require the complainant to make the complaint more specific.

[ARC 1773C, IAB 12/10/14, effective 1/14/15]

621—3.4(20) Service of complaint. The complainant shall, within a reasonable time following the filing of a complaint, serve all named respondents with a copy of the complaint in the manner of an original notice or by certified mail, return receipt requested, together with an agency-approved information sheet regarding mandatory electronic filing. Such service shall be upon the person(s) designated for service by 621—subrule 2.15(1), and the complainant shall file proof thereof with the agency in accordance with 621—subrule 2.15(3) and 621—subrule 16.10(1).

[ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 1773C, IAB 12/10/14, effective 1/14/15]

621—3.5(20) Answer to complaint.

3.5(1) Filing and service. Within ten days of service of a complaint, the respondent(s) shall file with the agency an answer to the complaint. The answer shall be signed by the respondent(s) or its designated representative. The answer shall be served through the electronic document management system unless the respondent is exempted from electronic filing in the proceeding, in which case service shall be in accordance with 621—subrules 2.15(2) and 2.15(3), and upon the person who signed the complaint being answered.

3.5(2) Extension of time to answer. The parties may agree to an extension of the time to answer and shall inform the agency of their agreement, or the board may, upon application and good cause shown, extend the time to answer.

3.5(3) Contents of answer. The answer shall specifically admit or deny each allegation of the complaint and may set forth additional facts deemed to constitute a defense. If the respondent is without knowledge sufficient to make an admission or denial concerning an allegation, the answer shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation

but shall fairly meet the substance of the allegation. Additional facts set forth in the answer shall be deemed denied by the complainant.

3.5(4) Admission by failure to answer. If the respondent fails to file a timely answer, such failure may be deemed by the board to constitute an admission of the material facts alleged in the complaint and a waiver of a hearing.

[ARC 1773C, IAB 12/10/14, effective 1/14/15]

621—3.6(20) Voluntary dismissal or withdrawal of complaint. At any time prior to the issuance of a proposed decision (or final decision if heard originally by the board), a complaint or any part thereof may be voluntarily dismissed by the complainant. Following the issuance of a proposed decision, but before the proposed decision becomes the agency's final decision, complaints may be withdrawn only with the consent of the board and upon conditions the board deems proper.

[ARC 1773C, IAB 12/10/14, effective 1/14/15]

621—3.7(20) Amendment of complaint or answer. Rescinded ARC 1773C, IAB 12/10/14, effective 1/14/15.

621—3.8(20) Investigation of complaint. The board or its designee may conduct a preliminary investigation of the allegations of any complaint. In conducting such investigation, the board may require the complainant and respondent to furnish evidence, including affidavits and other documents if appropriate. If a review of the evidence shows that the complaint has no basis in fact, the complaint may be dismissed with prejudice by the board and the parties notified. Administrative law judges involved in investigations under this rule shall not act as presiding officers in any proceeding related to the prohibited practice complaint.

[ARC 1773C, IAB 12/10/14, effective 1/14/15]

621—3.9 Rescinded, effective December 22, 1976.

621—3.10(20) Informal disposition. Rescinded ARC 1773C, IAB 12/10/14, effective 1/14/15.

621—3.11(20) Evidence of settlement negotiations. Rescinded ARC 1773C, IAB 12/10/14, effective 1/14/15.

621—3.12(20) Costs of certified shorthand reporters and transcripts.

3.12(1) Initial payment. The agency will arrange for a certified shorthand reporter to report the contested case hearing and request that an original transcript of the hearing be prepared by the reporter for the agency's use. The agency initially shall pay the reporter's reasonable compensation for reporting the hearing and producing the agency-requested transcript.

3.12(2) Taxation as costs. The cost of reporting and of the agency-requested transcript shall be taxed as costs against the nonprevailing party or parties although the presiding officer, or the board on appeal or review of a proposed decision and order, may apportion such costs in another manner if appropriate under the circumstances.

3.12(3) Payment of taxed costs. Following final agency action in a case, the agency will prepare and serve a bill of costs upon the party or parties against whom the costs have been taxed. Those parties shall, within 30 days of such service, remit to the agency the amount specified in the bill of costs. Sums remitted to the agency shall be considered repayment receipts as defined in Iowa Code section 8.2.

[ARC 1773C, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code chapter 20.

[Filed 3/4/75]

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CHAPTER 4
BARGAINING UNIT AND BARGAINING
REPRESENTATIVE DETERMINATION

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

621—4.1(20) General procedures.

4.1(1) General.

a. The agency shall determine an appropriate bargaining unit when requested by petition. Once a unit is initially determined, parties may request by petition: reconsideration of the unit, amendment of the unit, or clarification of the unit.

b. The agency may certify an employee organization to be the exclusive bargaining representative for a unit when requested by a petition or an application for intervention. Once certified, the employee organization will be subject to retention and recertification elections and may be subject to decertification if a petition is filed by an employee of the bargaining unit. The employee organization's certification may be amended when requested by petition by the employee organization or by the public employer, or when the agency files notice.

c. The employee organization shall have its certification revoked for failure to pay its election fees, or its certification may be revoked for failure to comply with the requirements of Iowa Code section 20.25.

4.1(2) Representation elections.

a. *Initial certification, retention and recertification, and decertification elections.* The initial certification, retention and recertification, and decertification of an employee organization require elections in accordance with 621—Chapters 5 and 15. The three types of elections affecting the bargaining representative determination or an employee organization's certification status are as follows:

(1) A certification election, which is initiated by the filing of a petition by the employee organization or the public employer, for the initial certification of an employee organization to be the exclusive bargaining representative for a bargaining unit of public employees;

(2) A retention and recertification election, which is initiated by the filing of notice by the agency, for the retention and recertification of a certified employee organization; and

(3) A decertification election, which is initiated by a public employee of a bargaining unit, for the decertification of an existing certified employee organization that represents the unit.

b. *Other elections—professional/nonprofessional unit and amendment of unit.* When a bargaining unit is determined or amended, an election may be required as provided in 621—Chapter 5. The two types of other elections are as follows:

(1) A professional and nonprofessional election occurs when the agency files an order directing the election after determining that professional and nonprofessional employees are appropriately included in the same bargaining unit.

(2) An amendment of unit election occurs when the agency files an order directing the election after determining that a job classification or classifications are appropriately amended into a bargaining unit, but a question of representation exists. A question of representation exists when the job classification(s) sought to be amended into a bargaining unit was in existence at the time the employee organization was certified to represent the bargaining unit and the job classification(s) separately constitutes an appropriate bargaining unit.

4.1(3) Separate or combined petitions. Requests for the initial bargaining unit determination and the bargaining representative certification shall be by petitions which may be filed separately or on a combined petition form pursuant to rule 621—4.4(20). When a request has been made to a public employer to bargain collectively with a designated group of public employees and the agency has not previously determined the bargaining unit, the petitions shall be filed jointly or on a combined form prescribed by the agency.

4.1(4) Intervention and additional parties. See rule 621—2.4(20).

4.1(5) Withdrawal of petitions. Petitions may be withdrawn only with the consent of the board.

4.1(6) Method of filing of all petitions. All petitions and subsequent documents submitted pursuant to this chapter shall be electronically filed pursuant to 621—Chapter 16, unless otherwise stated in these rules.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4458C, IAB 5/22/19, effective 6/26/19]

621—4.2(20) Unit determination.

4.2(1) *Content of petition.* A petition for bargaining unit determination shall be on an agency-prescribed form and filed with the agency. The petition shall identify and describe the proposed unit and indicate the unit's status as a public safety or non-public safety unit.

4.2(2) *Notice to parties.* Upon the filing of a proper petition, the agency shall serve copies thereof upon other interested parties by certified mail, return receipt requested. The agency shall file a notice to employees, giving notice that the petition has been filed and setting forth the rights of employees under Iowa Code chapter 20. The employer shall promptly distribute, electronically or by hard copy, the petition and notice to the affected employees. The employer shall also promptly post the petition and notice in the manner and locations customarily used for the posting of information to employees.

4.2(3) *Notice of hearing.* The board or administrative law judge shall file a notice of hearing setting forth the time, date and place of the hearing and any other relevant information. The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

4.2(4) *Intervention.* See rule 621—2.4(20).

4.2(5) *Professional/nonprofessional unit elections.* Should the agency determine, in any case, that professional and nonprofessional employees are appropriately included in the same bargaining unit, the agency shall file an order directing that an election be conducted to determine whether the professional and nonprofessional employees wish to be represented in a single bargaining unit. The election shall be conducted in accordance with rule 621—5.7(20).

4.2(6) *Informal settlement of bargaining unit determination.* Cases on bargaining unit determination may be informally settled in the following manner:

a. The parties may stipulate to the composition of the unit.

(1) The petitioning party shall prepare a stipulation setting forth in detail the composition of the bargaining unit as agreed upon by all parties. The stipulation shall be signed by the authorized representatives of the parties involved and shall be filed with the agency for informal review and tentative approval. In the event the parties agree to a combined unit of professional and nonprofessional employees, the stipulation shall set forth both those job classifications included within the professional category and those job classifications included within the nonprofessional category.

(2) If the agency fails to tentatively approve the stipulation, the agency shall notify the parties and, unless the parties amend the stipulation in a manner to gain tentative approval of the agency, the matter shall proceed to hearing.

(3) If the agency tentatively approves the stipulation, the agency shall file a public notice of proposed decision. The public employer shall promptly post copies of the notice of the proposed decision, for a period of not less than one calendar week, in a prominent place in the main office of the public employer accessible to the general public. The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

b. Notice of the proposed decision shall identify the parties; specify the terms of the proposed decision; list the names, addresses, telephone numbers, and email addresses of the parties or their authorized representatives to whom inquiries by the public should be directed; and, further, state the date and method by which written objection to the proposed decision must be filed with the agency.

c. Objections to the proposed decision must be electronically filed with the agency by the date posted in the notice of proposed decision. Objections shall set out the specific grounds of objection. The objecting party must identify itself and provide a mailing address, telephone number, and email address, if available. The agency shall promptly advise the parties of the objections and make any investigation deemed appropriate. If the agency deems the objections to be of substance, the parties may, with agency approval, amend their proposed decision to conform therewith, and the objecting party shall be notified by

the agency of the amendment. If the objections cannot be informally resolved, they may be dismissed or resolved at hearing.

d. Final board decision on the informal settlement shall be reserved until expiration of the time for filing of objections. If no objections have been filed; or if filed objections have been resolved through amendment of the proposed decision; or if filed objections, after inquiry by the board, were found to be frivolous, the board shall endorse the proposed decision as final.

e. If interested parties are unable to informally settle a case on bargaining unit determination within 15 days of service of a petition, the board or administrative law judge may order any interested party to file its proposed unit description.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4458C, IAB 5/22/19, effective 6/26/19; ARC 5631C, IAB 5/19/21, effective 6/23/21]

621—4.3(20) Bargaining representative determination (election petitions).

4.3(1) *Form of petition.* Petitions for bargaining representative determination (election petition) shall be on an agency-prescribed form and filed with the agency. These petitions shall be of three types:

a. A certification petition, filed by an employee organization requesting that through an election it be certified as the exclusive bargaining representative of an appropriate unit of public employees. The name of the employee organization which appears on the petition, or the petition as amended, shall be the name which appears on the election ballot.

b. A decertification petition, filed by a bargaining unit employee requesting an election to determine whether a majority of the employees in the bargaining unit wish to continue to be represented by a certified employee organization.

c. A representation petition, filed by a public employer requesting an election to determine the bargaining representative, if any, of the employees in the bargaining unit.

4.3(2) *Showing of interest—certification—decertification—intervention.* Whenever a petition for certification or decertification is filed, or whenever intervention is requested for the purpose of being placed on an election ballot, the petitioner or intervenor shall submit, by ordinary mail or personal delivery, evidence that the petition or application for intervention is supported by 30 percent of the employees in the bargaining unit. In petitions for certification or applications for intervention, such showing of interest shall be dated and signed not more than one year prior to its submission; shall contain the job classification of the signatory; and shall contain a statement that the signatory is a member of the employee organization or has authorized it to bargain collectively on the signatory's behalf. In petitions for decertification, evidence of interest shall be as provided above, except the evidence of interest shall instead contain a statement that the signatory no longer wishes to be represented by the certified employee organization. When a representation petition is filed by an employer, no showing of interest will be required.

4.3(3) *Determination of showing of interest.* The public employer shall, within seven days of receipt of notice of a certification or decertification petition, file with the agency a list of the names and job classifications of the employees in the unit which is the subject of the petition or, in the case of a combined petition, the employees in the unit requested by the petitioner. The agency shall administratively determine the sufficiency of the showing of interest upon receipt of the list. This determination, including the identification and number of signers of the showing of interest, shall be confidential and not subject to review, and parties other than the party submitting the showing of interest shall not be entitled to a copy or examination of the showing of interest. If the employer fails to furnish the list of employees, the agency shall determine the sufficiency of the showing of interest by whatever means it deems appropriate.

4.3(4) *Notice.* Upon the filing of a petition for certification, decertification or representation, the agency shall file a notice to employees, giving notice that an election petition has been filed and setting forth the rights of employees under Iowa Code chapter 20. The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

4.3(5) *Direction of election.* Whenever an election petition is filed which conforms to these rules and Iowa Code chapter 20 and the appropriate bargaining unit has been previously determined, an election shall be directed and conducted under the provisions of 621—Chapter 5.

4.3(6) *Intervention.* See rule 621—2.4(20).

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 5631C, IAB 5/19/21, effective 6/23/21]

621—4.4(20) Concurrent (combined) petitions.

4.4(1) *When to file.* A combined petition for both bargaining unit determination and bargaining representative certification shall be filed whenever the bargaining unit has not been previously determined and a representative has not been certified by the agency.

4.4(2) *Content of petition.* A combined petition for unit determination and representative certification shall be on an agency-prescribed form.

4.4(3) *Notice of petition, hearing, and notice to employees.* Upon the filing of a combined petition, notice shall be as provided in subrules 4.2(2), 4.2(3) and 4.3(4).

4.4(4) *Showing of interest.* Showing of interest shall be as provided in subrules 4.3(2) and 4.3(3). Should the board determine an appropriate unit different than that requested, any employee organization affected may request a reasonable period of time to submit additional evidence of interest sufficient to satisfy the requirements of Iowa Code chapter 20.

4.4(5) *Scope of hearing.* Hearings on combined petitions shall resolve all issues with regard to both bargaining unit determination and bargaining representative certification.

4.4(6) *Intervention.* See rule 621—2.4(20).

4.4(7) *Professional and nonprofessional elections.* See subrule 4.2(5) and rule 621—5.7(20).

[ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4458C, IAB 5/22/19, effective 6/26/19]

621—4.5(20) Unit reconsideration. A petition for reconsideration of an agency-established bargaining unit may be filed by an employee organization, public employer, or an employee of the public employer. This petition may be filed only in combination with a certification petition. Rules 621—4.1(20), 621—4.2(20), 621—4.3(20) and 621—4.4(20) shall apply. A petition for reconsideration of an agency-established bargaining unit covering state employees may not be filed for at least one year after the initial unit determination. The agency may dismiss the petition for unit reconsideration if the petitioner fails to establish that the previously determined bargaining unit is inappropriate.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18]

621—4.6(20) Amendment of unit.

4.6(1) *Petition.* A petition for amendment of an agency-determined bargaining unit may be filed by the public employer or the certified employee organization. The petition shall contain:

a. The names, addresses, telephone numbers and email addresses of the public employer and the employee organization or their respective representatives.

b. An identification and description of the proposed amended unit.

c. The names and addresses of any other employee organizations which claim to represent any employees affected by the proposed amendment or a statement that the petitioner has no knowledge of any other such organization.

d. Job classifications of the employees as to whom the issue is raised, the number of employees, if any, in each classification, and whether each job classification qualifies as a public safety employee.

e. A statement identifying the current status of the unit as either a public safety or a non-public safety unit and the change, if any, to the status of the unit which would result from the requested amendment.

f. A specific statement of the petitioner's reasons for seeking amendment of the unit and any other relevant facts.

4.6(2) *Procedure—decision.* Insofar as applicable, rule 621—4.2(20) shall apply.

4.6(3) *Elections; when required.* When a question of representation exists, the agency will conduct an amendment of unit election pursuant to rule 621—5.8(20). A question of representation exists when the job classification(s) sought to be amended into a bargaining unit was in existence at the time the employee organization was certified to represent the bargaining unit and the job classification(s) separately constitutes an appropriate bargaining unit.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4458C, IAB 5/22/19, effective 6/26/19]

621—4.7(20) Unit clarification. A petition to clarify the inclusion or exclusion of job classifications or employees in an agency-determined bargaining unit may be filed by the public employer, an affected public employee, or the certified employee organization. Such petition may be filed only if the bargaining unit is represented by a certified bargaining representative. Insofar as applicable, the procedures for such filing shall be as provided in subrule 4.6(1).

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18]

621—4.8(20) Amendment of certification.

4.8(1) *Petitions.* A petition for the amendment of a certified employee organization's certification may be filed by the certified employee organization, the public employer or the agency to reflect an act or occurrence affecting the organization or the public employer, such as a name change or merger.

4.8(2) *Employee organization.* The employee organization must file its petition with the following:

a. An affidavit(s) that establishes:

(1) The act or occurrence, which the requested amendment would reflect, was authorized by and accomplished in accordance with the certified employee organization's constitution and bylaws, which provided members with adequate due process; and

(2) Substantial continuity of representation has been maintained.

b. Updated agency reports if there is a change in the employee organization's name or if there is a change to the employee organization's governing body. The reports shall include the following:

(1) An updated PERB annual report that covers the time period from the last annual report to the time of the filing of the petition.

(2) An updated PERB registration report.

(3) An updated constitution and bylaws.

c. Final agency reports for dissolved organizations resulting from a merger. The final agency report shall include a PERB annual report that covers the time period from the last annual report to the time of the merger and shall reflect the closing of the books and accounts of the dissolved employee organization. The certified employee organization may wait and submit its final agency reports following the board's tentative approval of the amendment of certification.

4.8(3) *Public employer.* The public employer must file its petition with an affidavit, affidavits or other documents, such as board minutes, establishing a change in the name of the public employer.

4.8(4) *Agency.* The agency may, at any time, file a petition with a document or documents establishing the basis for the amendment.

4.8(5) *Public employer posting, decisions and objection period.* When a petition for amendment of certification is filed which the agency deems sufficient to fulfill the requirements of this rule, the agency shall file a public notice of its proposed decision to amend the employee organization's certification upon the non-petitioning interested parties. Upon receipt, the public employer shall promptly post the notice of proposed decision, for a period of not less than one calendar week, in a prominent place in the main office of the public employer accessible to the general public. The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

a. The notice of the proposed decision shall identify the parties; specify the terms of the proposed decision; list the names, addresses, telephone numbers, and email addresses of the parties or their authorized representatives to whom inquiries by the public should be directed; and state the date and method by which written objection to the proposed decision must be filed.

b. Objections to the proposed decision must be electronically filed with the agency by the date specified in the notice. Objections shall set out the specific grounds of objection. The objecting party must identify itself and provide a mailing address, telephone number and email address. The agency shall promptly advise the parties of the objections and make any investigation deemed appropriate. When an objection is raised, the agency may investigate and dismiss the objection or conduct a hearing pursuant to 621—Chapter 2.

c. A final agency decision shall be reserved until the expiration of the time for filing objections. If no objections have been filed, the agency may endorse the proposed decision as final.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4458C, IAB 5/22/19, effective 6/26/19; ARC 5631C, IAB 5/19/21, effective 6/23/21]

621—4.9(20) Merger of units represented by the same certified employee organization. A certified employee organization may petition the agency to merge two of the bargaining units the organization represents into one successive unit. This proceeding does not apply to school districts' and area education agencies' reorganizations and mergers pursuant to Iowa Code chapter 273 or 275.

4.9(1) *Petition.* A petition to amend a bargaining unit may be filed by a certified employee organization to reflect a merger of two agency-determined bargaining units which have the same public employer and are represented by the same certified employee organization. The petition shall contain:

- a. The names, addresses, telephone numbers, and email addresses of the public employer and the employee organization or their respective representatives.
- b. A listing of all PERB cases relevant to the first unit and its certification history followed by a current description of the unit.
- c. A listing of all PERB cases relevant to the second unit and its certification history followed by a current description of the unit.
- d. An identification and description of the proposed amended unit.
- e. The names and addresses of any other employee organizations which claim to represent any employees affected by the proposed amendment or a statement that the petitioner has no knowledge of any other such organization.
- f. A statement identifying the current status of the units as either public safety units or non-public safety units and the change, if any, to the status of the unit, which would result from the requested merger.
- g. A specific statement of the petitioner's reasons for seeking amendment of the unit and any other relevant factors.

4.9(2) *Accompanying documents.* The successive employee organization must file its petition with an affidavit(s) that establishes the following for each unit:

- a. The act or occurrence (merger), which the requested amendment would reflect, was authorized by and accomplished in accordance with the certified employee organization's constitution and bylaws, which provided members with adequate due process; and
- b. Substantial continuity of representation has been maintained.

4.9(3) *Notice.* Upon the filing of a petition, the agency shall file a notice to employees, giving notice that a petition for the merger of two units has been filed and setting forth the rights of employees under Iowa Code chapter 20. The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

4.9(4) *Procedure—decision.* Insofar as applicable, rule 621—4.2(20) shall apply.
[ARC 4458C, IAB 5/22/19, effective 6/26/19; ARC 5631C, IAB 5/19/21, effective 6/23/21]

621—4.10(20) Merger of two units represented by affiliated certified employee organizations. A certified employee organization may petition the agency to amend a bargaining unit the organization represents to merge another bargaining unit of employees into the successive unit. The unit of employees added must be represented by an affiliated certified employee organization. This proceeding does not apply to school districts' and area education agencies' reorganizations and mergers pursuant to Iowa Code chapter 273 or 275.

4.10(1) *Petition.* A combined petition to amend a bargaining unit and an employee organization's certification may be filed by a successive employee organization to reflect a merger of two agency-determined bargaining units that have the same public employer and are represented by affiliated certified employee organizations. The combined petition shall contain:

- a. The names, addresses, telephone numbers, and email addresses of the public employer and the employee organization or their respective representatives.
- b. A listing of all PERB cases relevant to the first unit and its certification history followed by a current description of the unit.

- c. A listing of all PERB cases relevant to the second unit and its certification history followed by a current description of the unit.
- d. An identification and description of the proposed amended unit.
- e. The names and addresses of any other employee organizations which claim to represent any employees affected by the proposed amendment or a statement that the petitioner has no knowledge of any other such organization.
- f. A statement identifying the current status of the units as either public safety units or non-public safety units and the change, if any, to the status of the unit, which would result from the requested merger.
- g. A specific statement of the petitioner's reasons for seeking amendment of the unit and any other relevant factors.

4.10(2) *Accompanying documents.* The successive employee organization must file its petition with the following:

- a. An affidavit(s) that establishes the following:
 - (1) The act or occurrence, which the requested amendment would reflect, was authorized by and accomplished in accordance with the certified employee organization's constitution and bylaws, which provided members with adequate due process; and
 - (2) Substantial continuity of representation has been maintained.
- b. Updated agency reports if there is a change in the employee organization's name or if there is a change to the employee organization's governing body. The reports shall include the following:
 - (1) An updated PERB annual report that covers the time period from the last annual report to the time of the filing of the petition.
 - (2) An updated PERB registration report.
 - (3) An updated constitution and bylaws.
- c. Final agency reports for dissolved organizations resulting from a merger. The final agency report shall include a PERB annual report that covers the time period from the last annual report to the time of the merger and shall reflect the closing of the books and accounts of the dissolved employee organization. The certified employee organization may wait and submit its final agency reports following the board's tentative approval of the amendment of certification.

4.10(3) *Notice.* The agency shall file a notice to employees, giving notice that a petition to merge two units and amend the certification of the successive employee organization has been filed and setting forth the rights of employees under Iowa Code chapter 20. The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

4.10(4) *Procedure—decision.* Insofar as applicable, rules 621—4.2(20) and 621—4.8(20) shall apply.

4.10(5) *Elections.* Should the agency determine, in any case, it is appropriate to merge one unit into the successive unit, the agency shall file an order directing that an election be conducted to determine whether the employees of the unit getting merged into the successive unit wish to be represented by the successive certified employee organization. The election shall be conducted in accordance with rule 621—5.8(20).

[ARC 4458C, IAB 5/22/19, effective 6/26/19; ARC 5631C, IAB 5/19/21, effective 6/23/21]

These rules are intended to implement Iowa Code chapter 20.

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CHAPTER 5
ELECTIONS

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

621—5.1(20) General procedures. The agency shall determine the date of the election or election period, and the place, method, and other procedural aspects of conducting an election held pursuant to Iowa Code chapter 20. Elections shall be conducted under the direction and supervision of the agency or its election agent and shall be by secret ballot. Parties shall electronically file all documents in the applicable adjudicatory case file in the agency's electronic document management system (EDMS) unless the rules specify otherwise.

5.1(1) Election types. There are five types of elections:

- a. Certification election.
- b. Retention and recertification election. Specific rules addressing retention and recertification elections are contained in 621—Chapter 15.
- c. Decertification election.
- d. Professional and nonprofessional election.
- e. Amendment of unit election.

5.1(2) Election fees.

a. For certification and decertification elections, the employee organization is responsible for and shall prepay the election fees in accordance with this chapter and rules relevant to the specific election. Employee organizations intervening in a certification election shall pay a proportionate share of the election fees.

b. A certified employee organization may file a written request with the agency for an extension of time in which to pay its election fees. The employee organization may file the request after the filing of a certification or decertification petition, but no later than seven days after the agency's filing of an order directing an election. In no event will the agency conduct an election prior to an employee organization's payment of election fees.

c. A certified employee organization may file notice of nonpayment to indicate that it will not pay the election fees for a decertification election. The notice of nonpayment may be filed at any time, but must be filed no later than seven days after the agency's filing of an order for a decertification election. The notice shall be signed by an authorized representative of the organization, state that the organization will not pay the election fees, and acknowledge that the agency will not conduct the applicable election and the employee organization's certification will be revoked.

d. For certification and decertification elections, the applicable election fee is based upon the list provided pursuant to 621—subrule 4.3(3) to verify the showing of interest.

(1) When the list contains ten or fewer eligible voters, the election fee is \$20. When the list contains more than ten eligible voters, the election fee is \$2 per eligible voter. When the number of eligible voters on the list for determining fees increases or decreases as contemplated by subparagraph 5.2(2) "b"(2) or due to successful challenges pursuant to subrule 5.2(3) and the increases or decreases alter the number of eligible voters by ten or more, the employee organization shall make an additional payment to reflect the increased number of eligible voters or, in the case of a decrease, the agency shall reimburse the employee organization for its overpayment.

(2) The agency will not refund the election fee in the event the election fee is paid and the agency has performed duties to conduct the election but the election does not occur.

5.1(3) Date of election. For purposes of this chapter, the date of an election shall be the date on which the ballots were tallied.

5.1(4) Election period. For purposes of this chapter, an election period begins at the time and on the date the agency sets for when eligible voters may first cast a ballot and ends at the time and on the date the agency sets for the tally of ballots.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4458C, IAB 5/22/19, effective 6/26/19; ARC 5631C, IAB 5/19/21, effective 6/23/21]

621—5.2(20) Eligibility—voter eligibility lists.

5.2(1) Eligible voters. For certification, decertification, professional/nonprofessional, or amendment of unit elections, eligible voters are those employees who:

- a. Were employed and included in the bargaining unit on the date of the order directing an election unless another date is agreed upon by the parties and the agency, and
- b. Are employed in the bargaining unit on the date of the election.

5.2(2) Certification, decertification, professional/nonprofessional, and amendment of unit elections—eligible voter list.

- a. List for determining fees. The agency will determine the election fee based on the initial employer-provided list of employees used to verify the showing of interest pursuant to 621—subrule 4.3(3).
- b. Voter eligibility list.

(1) When the agency files an order that an election be conducted, the employer shall, within seven days of the notice or order, email to the agency an alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote. When a telephonic/web-based election is ordered, the list of eligible voters shall also include the employee's date of birth, the last four digits of the employee's social security number and any other information required by the agency.

(2) The agency shall file the list of eligible voters' names and job classifications. This list shall become the official voting list for the election to be conducted. The agency shall provide to the employee organization the voter list containing the employees' contact information. The employer or employee organization shall email proposed additions or deletions of employees' names, changes in job classifications, addresses, contact information, or other eligible voter changes to the agency and to the other party. The parties may further amend the list by agreement.

5.2(3) Challenges.

a. *Voter eligibility challenge.* A party may challenge, for good cause, the eligibility of any voter. The agency shall attempt to resolve the challenge. Whenever challenged ballots are unresolved and determinative of the outcome of an election, a hearing to determine the eligibility of the challenged voter(s) shall be scheduled and conducted. After the conclusion of the hearing, the board may, if necessary, order a new election, and the cost may be taxed to the nonprevailing party.

b. *Methods and timing of voter eligibility challenges.* A party may challenge the eligibility of a voter by electronically filing a completed voter eligibility form in the case file and in accordance with the following:

(1) In-person elections. A party shall challenge a voter's eligibility prior to the time the voter deposits the voter's ballot in the ballot box. In the event of a challenge, the challenged voter may mark the ballot in secret, and the election agent shall segregate the ballot by causing it to be placed in a challenged-ballot envelope with appropriate markings and depositing it in the ballot box.

(2) Mail-ballot elections. A party shall challenge a voter's eligibility prior to the time the outer envelope containing the voter's secret envelope and ballot is opened. In the event of a challenge, both the secret envelope and the outer envelope shall remain sealed until the challenge is resolved.

(3) Telephonic/web-based elections. A party shall challenge a voter's eligibility prior to the end of the election period.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4458C, IAB 5/22/19, effective 6/26/19; ARC 5631C, IAB 5/19/21, effective 6/23/21]

621—5.3(20) Methods of voting—general procedures. The agency may conduct an election, in whole or in part, in person, by mail ballot, or through a telephonic/web-based system.

5.3(1) In-person election. An eligible voter shall cast the voter's ballot by marking the voter's choice on the ballot and depositing it in the ballot box or inserting it in a voting machine, whichever is applicable. If a voter inadvertently spoils a ballot, the ballot may be returned to the agent who shall void and retain it and provide another ballot to the voter. Eligible voters may be asked to cast their votes via a nondocument ballot when there is a voting machine present that accommodates this technology.

a. *Absentee ballot.* An absentee ballot shall be delivered to an eligible voter upon the voter's written notice to the agency of the voter's inability to be present at the election. The marked absentee ballot

shall be in the possession of the election agent prior to the close of the in-person election in order to be counted. The marked absentee ballot shall be contained in the secret envelope provided to the voter, and the postage-paid, return-addressed outer envelope provided for the return of the ballot to the agency shall be signed by the voter in order for the ballot to be counted.

b. Observers. Each party to an election may designate an equal number of representatives to act as the party's observers during the election and tally of ballots. Unless agreed to by the parties, observers shall not be supervisory employees of the public employer.

c. Ballot box. Upon examination by the observers and prior to the opening of the polls, the election agent shall seal the ballot box so that entry thereto is limited to one slot. In the event that the election is continued for more than one polling period or at more than one polling place, the ballot box shall be sealed in its entirety and shall remain in the custody of the election agent until immediately prior to the next polling period or the counting of the ballots.

d. Voting machines. The agency may utilize voting machines to assist with the casting or tabulation of votes.

e. Tally. The agency shall tally the ballots by manual count or electronic count and file the tally after the close of the election. Void ballots are those which do not indicate a preference or the clear intent of the voter or which appear to identify the voter. The employer shall promptly distribute, electronically or by hard copy, copies of the tally of ballots to the affected employees. The employer shall also promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees.

5.3(2) Mail-ballot election. When conducting a mail-ballot election, the agency shall send an official voting package to each eligible voter by ordinary mail and direct a date by which voted ballots must be received by the agency in order to be counted.

a. Contents of official voting packages. Voting packages sent to eligible voters shall consist of voting instructions, a ballot, a secret envelope in which the marked ballot is to be inserted, and a postage-paid, return-addressed outer envelope which identifies the voter for purposes of proposing challenges to the voter's eligibility. In the event of a challenge, both envelopes shall remain sealed until such time as the challenge is resolved.

b. Tally of ballots—observers. The agency shall set a time and place for the tally of ballots, at which time observers designated by the parties to the election shall be entitled to be present. The voter's outer envelope shall be opened, and the secret envelope containing the voter's ballot shall be commingled with the other secret envelopes. The agency shall tally the ballots and file the tally after the close of the election. Void ballots are those which do not indicate a preference or the clear intent of the voter, which appear to identify the voter, which are not enclosed in the secret envelope provided to the voter, or which are returned in an outer envelope which does not bear the voter's signature. The employer shall promptly distribute, electronically or by hard copy, copies of the tally of ballots to the affected employees. The employer shall also promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees.

5.3(3) Telephonic/web-based election. The agency may utilize an election services vendor for the receipt of telephonic and web-based ballots and for the tabulation of those ballots.

a. Notice of election. When conducting a telephonic/web-based election, whether in whole or in part, the agency shall include in the notice of election the telephone number the voter is to call to cast a ballot, the website address for web-based voting and a sample ballot or script.

b. Tally. Following the close of the election period and the agency's receipt of the ballot tabulation from the election services vendor, the agency shall tally the ballots and file the tally. Void or blank ballots are those which do not indicate a preference or clear choice by the voter in favor of one of the voting options presented by the ballot. The employer shall promptly distribute, electronically or by hard copy, copies of the tally of ballots to the affected employees. The employer shall also promptly post copies of the tally of ballots in the manner and locations customarily used for the posting of information to employees.

c. Inoperable voting system. The board may extend the period of the election due to inoperable voting systems.

5.3(4) *Alternate voting method.* When a voter promptly informs the agency of the voter's inability to cast a ballot using the designated methods of voting, the agency shall assist the voter in using an alternate method to cast a secret ballot.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 5631C, IAB 5/19/21, effective 6/23/21]

621—5.4(20) Objections to an election.

5.4(1) *Objections.* Written objections to an election may be filed by any public employee, public employer, or employee organization involved in the election or by the board on its own motion. Objections must be filed with the agency within ten days of the filing of the tally of ballots, even when challenges to eligible voters may be determinative of the outcome of the election. The objection must identify the objecting party; provide the objecting party's mailing address, telephone number, and email address, if available; and contain a statement of facts upon which the objections are based. The agency shall promptly advise the parties of the objections and make any investigation deemed appropriate. If the objections cannot be informally resolved, they may be dismissed or resolved at hearing. Hearings on objections shall be conducted pursuant to 621—Chapter 2. The objecting party shall present its evidence first.

5.4(2) *Objectionable conduct during election campaigns.* The following types of activity, if conducted during the period beginning with the filing of an election petition with the agency or the agency's filing of a notice of intent to conduct a retention and recertification election and ending at the conclusion of the election, if determined by the agency that such activity could have affected the results of the election, shall be considered to be objectionable conduct sufficient to invalidate the results of an election:

- a. Electioneering within 300 feet or within sound of the polling place established by the agency during the conduct of an in-person election;
- b. Misstatements of material facts by any party to the election or its representative without sufficient time for the adversely affected party to adequately respond;
- c. Any misuse of agency documents, including an indication that the agency endorses any particular choice appearing on the ballot;
- d. Campaign speeches by an employer to assembled groups of employees during working hours within the period beginning 24 hours before the opening of the polls in an in-person election, the mailing of ballots in a mail-ballot election, or the commencement of the telephonic/web-based election period and extending until the close of the in-person polls, the deadline for the agency's receipt of mail ballots, or the close of the election period in a telephonic/web-based election;
- e. Any polling of employees by a public employer which relates to the employees' preference for or against a bargaining representative;
- f. Commission of a prohibited practice;
- g. Any other misconduct or other circumstance which prevents employees from freely expressing their preferences in the election.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18]

621—5.5(20) Certification elections.

5.5(1) *General procedures.* Upon the agency's determination that a certification petition is supported by an adequate showing of interest in accordance with rule 621—4.3(20), the agency shall file an order directing that an election be conducted in a specified manner and that the employer email a list of eligible voters to the agency pursuant to rule 621—5.2(20).

5.5(2) *Payment of election fee.* The election fee shall be based on the initial employee list provided by the employer to verify the showing of interest pursuant to 621—subrule 4.3(3). Upon the filing of a certification petition, but no later than seven days after the agency's filing of an order directing an election, an employee organization shall pay the applicable election fee to the agency, unless an extension of time, upon written request, is granted by the agency. The agency will not conduct an election prior to receiving the applicable election fee from the petitioner. An employee organization's failure to pay the applicable election fee in a timely manner will result in the agency's dismissal of the certification petition. The election fee shall be paid by check payable to the agency and is deemed paid upon receipt by the agency or,

if submitted by mail, on the date of the U.S. Postal Service postmark affixed to the envelope in which the payment was mailed.

5.5(3) Notice of election. Following the employer's submission of the list of eligible voters, the employee organization's payment of the applicable election fee and the expiration of the time for intervention as provided in subrule 5.5(4), the agency shall file a notice of election containing a sample ballot or script and setting forth the date, time, place, method, and purpose of the election and such additional information as the agency may deem appropriate. The employer shall distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

5.5(4) Intervention.

a. No employee organization other than the petitioner shall be placed on the ballot unless application for intervention, as provided in rule 621—2.4(20), is filed with the agency within seven days after the filing of the agency's order directing the election in which intervention is sought. An employee organization seeking intervention shall submit to the agency, by ordinary mail or personal delivery, an adequate showing of interest as provided in 621—subrule 4.3(2) within seven days after the agency's direction of an election.

b. An intervening employee organization shall pay the applicable election fee to the agency within seven days after the agency's grant of its application to intervene. The election fee shall be paid by check payable to the agency and is deemed paid upon receipt by the agency or, if submitted by mail, on the date of the U.S. Postal Service postmark affixed to the envelope in which the payment was mailed. Failure to pay the applicable election fee in a timely manner will result in the intervenor's exclusion from the ballot.

c. An intervening employee organization may, upon its filing of a written request, be removed from the ballot with the approval of the agency.

5.5(5) Ballots. The question in an election where only one employee organization appears on the ballot shall ask, "Do you wish to be represented for purposes of collective bargaining by [name of employee organization]?" followed by the choices "Yes" or "No." The question in an election where more than one employee organization appears on the ballot shall ask: "Do you wish to be represented for purposes of collective bargaining by:" and shall then list horizontally or vertically thereafter the choices available, including the name of each employee organization and the choice of "Neither" or "No Representative," as is applicable.

5.5(6) Certification of results and compliance with Iowa Code section 20.25.

a. Upon completion of a valid certification election in which an employee organization received the votes of a majority of the employees in the bargaining unit and the employee organization complies with the provisions of Iowa Code section 20.25, the agency shall file an order certifying that employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

b. Upon completion of a valid certification election in which none of the employee organizations on the ballot received the votes of a majority of the employees in the bargaining unit, the agency shall file an order of noncertification.

c. If an employee organization which received the votes of a majority of the employees in the bargaining unit fails to comply with the provisions of Iowa Code section 20.25 within 90 days of the completion of a valid certification election, the agency shall file an order of noncertification; provided, however, that extensions of time to comply may be granted by the board upon good cause shown.

5.5(7) Bars to certification elections.

a. The agency shall not consider a petition for certification of an employee organization as the exclusive representative of a bargaining unit unless a period of two years has elapsed from the date of any of the following:

(1) The last certification election in which an employee organization was not certified as the exclusive representative of that bargaining unit.

(2) The last retention and recertification election in which an employee organization was not retained and recertified as the exclusive representative of that bargaining unit.

(3) The last decertification election in which an employee organization was decertified as the exclusive representative of that bargaining unit.

b. The agency shall not consider a petition for certification of an employee organization as the exclusive bargaining representative of a bargaining unit if the bargaining unit is already represented by a certified bargaining representative.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 5631C, IAB 5/19/21, effective 6/23/21]

621—5.6(20) Decertification elections.

5.6(1) Eligible voter list. Upon the agency's determination that a decertification petition is supported by an adequate showing of interest in accordance with rule 621—4.3(20), the agency shall file an order directing that an election be conducted in a specified manner not less than 150 days before the expiration date of the bargaining unit's collective bargaining agreement and that the employer submit a list of eligible voters pursuant to rule 621—5.2(20), unless the election is barred by subrule 5.6(6). The agency may, at the agency's discretion, dismiss a decertification petition if the agency determines that an election cannot be conducted at least 150 days before the expiration date of the bargaining unit's collective bargaining agreement.

5.6(2) Payment of election fee. The election fee shall be based on the initial employee list provided by the employer to verify the showing of interest pursuant to 621—subrule 4.3(3). After the filing of a decertification petition, but no later than seven days after the agency's filing of an order directing an election, the certified employee organization shall pay the applicable election fee to the agency, unless the organization's written request for an extension of time to pay the fee for good cause is granted by the agency. The election fee shall be paid by check payable to the agency and is deemed paid upon receipt by the agency or, if submitted by mail, on the date of the U.S. Postal Service postmark affixed to the envelope in which the payment was mailed. The agency will not conduct an election prior to receiving the applicable election fee. A certified employee organization's failure to pay the applicable election fee in a timely manner shall result in the revocation of the employee organization's certification.

5.6(3) Notice of election. Following the employer's submission of the list of eligible voters and the employee organization's payment of the applicable election fee, the agency shall file a notice of election containing a sample ballot or script and setting forth the date, time, place, method, and purpose of the election, and such additional information as the agency may deem appropriate. The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

5.6(4) Ballots. Ballots shall contain the question "Do you want [name of certified employee organization] to be decertified by the Public Employment Relations Board and cease to be your exclusive bargaining representative?" followed by the choices "Yes, I no longer wish to be represented by [name of certified employee organization]" or "No, I want to continue to be represented by [name of certified employee organization]."

5.6(5) Certification of results.

a. Upon completion of a valid decertification election in which a majority of the employees in the bargaining unit voted to decertify the employee organization, the agency shall file an order decertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

b. Upon completion of a valid decertification election in which a majority of the employees in the bargaining unit did not vote to decertify the employee organization, the agency shall file an order continuing the certification of the employee organization as the exclusive bargaining representative of the employees in the bargaining unit.

5.6(6) Bars to decertification election.

a. The agency shall not consider a petition for decertification of an employee organization unless the collective bargaining agreement exceeds two years in duration.

b. The agency shall not consider a decertification petition during pendency of a retention and recertification proceeding.

c. The agency shall not schedule a decertification election within one year of a prior certification, retention and recertification, or decertification election involving the bargaining unit.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4458C, IAB 5/22/19, effective 6/26/19; ARC 5631C, IAB 5/19/21, effective 6/23/21]

621—5.7(20) Professional and nonprofessional elections.

5.7(1) General procedure. Should the agency determine, in any case, that professional and nonprofessional employees are appropriately included in the same bargaining unit, the agency shall file an order directing that an election be conducted to determine whether those professional and nonprofessional employees agree to be represented in a single bargaining unit and that the employer email separate lists of eligible professional and nonprofessional voters pursuant to rule 621—5.2(20).

5.7(2) Voter eligibility list.

a. The public employer shall email the lists of employees in the professional and nonprofessional categories to the agency within seven days of the agency's order. The lists shall be organized alphabetically and contain the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees eligible to vote; and any other information required by the agency. The agency shall file the lists of eligible voters' names and job classifications. These lists shall become the official voting lists for the election to be conducted. The agency shall provide to the employee organization the voter lists with the employees' contact information.

b. The employer or employee organization shall email proposed additions or deletions of employees' names, changes in job classifications, addresses, contact information, or other eligible voter changes to the agency and other party. The parties may amend the lists by agreement.

5.7(3) Notice of election. Following the employer's submission of the lists of eligible voters, the agency shall file a notice of election containing a sample ballot or script for each category of employee and setting forth the date, time, place, method, and purpose of the election, and such additional information as the agency may deem appropriate. The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees.

5.7(4) Election fee. No election fee is assessed for an election held pursuant to this rule.

5.7(5) Ballots. Ballots shall contain the following question, "Do you agree to the inclusion of professional and nonprofessional employees in the same bargaining unit?" followed by the choices "Yes" or "No."

5.7(6) Certification of results.

a. Upon completion of a valid professional/nonprofessional election in which separate majorities of employees voting in both the professional and nonprofessional categories voted in favor of their inclusion in the same bargaining unit, the agency shall define a bargaining unit which includes both professional and nonprofessional employees.

b. Upon completion of a valid professional/nonprofessional election in which separate majorities of employees voting in one or both of the professional and nonprofessional categories did not vote in favor of employees' inclusion in the same bargaining unit, the agency shall not define a bargaining unit which includes both professional and nonprofessional employees.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4458C, IAB 5/22/19, effective 6/26/19; ARC 5631C, IAB 5/19/21, effective 6/23/21]

621—5.8(20) Amendment of unit elections.

5.8(1) General procedure. Should the agency determine that a job classification or classifications are appropriately amended into a bargaining unit, but that those classifications existed at the time the employee organization was certified and would separately constitute an appropriate unit, the agency shall file an order directing that an election be conducted. The election will determine whether a majority of the employees in those classifications wish to be represented by the existing certified employee organization. The order shall further require the employer to email a list of the employees in those classifications pursuant to rule 621—5.2(20).

5.8(2) Voter eligibility list. The public employer shall email the list of employees to the agency within seven days of the agency's order. The list shall be organized alphabetically and contain the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the

employees eligible to vote; and any other information required by the agency. The agency shall file the list of eligible voters' names and job classifications, which shall become the official voting list for the election to be conducted. The employer or employee organization shall email proposed additions or deletions of employees' names, changes in job classifications, addresses, contact information or other eligible voter changes to the agency and other party. The parties may further amend the list by agreement.

5.8(3) *Notice of election.* Following the employer's submission of the list of eligible voters, the agency shall file a notice of election containing a sample ballot or script and setting forth the date, time, place, method, and purpose of the election, and such additional information as the board may deem appropriate. The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also post the notice in the manner and locations customarily used for the posting of information to employees.

5.8(4) *Election fee.* No election fee is assessed for an election held pursuant to this rule.

5.8(5) *Ballots.* Ballots shall contain the following question, "Do you wish to be represented for purposes of collective bargaining by [name of employee organization]?" followed by the choices "Yes" or "No."

5.8(6) *Certification of results.*

a. Upon completion of a valid amendment of unit election in which a majority of employees voting cast ballots in favor of representation by the certified employee organization, the agency shall file an order amending the unit as previously determined to be appropriate by the agency.

b. Upon completion of a valid amendment of unit election in which a majority of employees voting did not cast ballots in favor of representation by the certified employee organization, the agency shall file an order dismissing the amendment of unit petition.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4458C, IAB 5/22/19, effective 6/26/19; ARC 5631C, IAB 5/19/21, effective 6/23/21]

621—5.9(20) Destruction of ballots. In the absence of litigation over the validity or outcome of an election and after a period of 60 days has elapsed from the date of the filing of an order of certification, noncertification, recertification, decertification or continued certification of an employee organization pursuant to the election, the agency will cause the ballots cast in the election to be destroyed.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4458C, IAB 5/22/19, effective 6/26/19]

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CHAPTER 6
NEGOTIATIONS AND NEGOTIABILITY DISPUTES

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

621—6.1(20) Scope of negotiations. The scope of negotiations shall include the mandatory subjects of collective bargaining as provided in Iowa Code section 20.9. “Permissive” matters are all other subjects upon which bargaining is not prohibited. Either party may introduce permissive matters for negotiation, and negotiation on these matters may continue until resolved by mutual agreement of the parties or until negotiations reach the arbitration stage of impasse; however, no party is required to negotiate on permissive subjects of bargaining. Unresolved permissive matters shall be excluded from arbitration unless submission of the matter has been mutually agreed upon by the parties. Such an agreement is applicable only to negotiations toward the collective bargaining agreement then sought and is not binding upon the parties for future negotiations.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 2308C, IAB 12/9/15, effective 1/13/16]

621—6.2(20) Consolidated negotiations. Nothing in these rules shall prohibit, by agreement of the parties, more than one certified bargaining representative from bargaining jointly with a common public employer, or more than one public employer from bargaining jointly with a common certified bargaining representative, or any other combination thereof.

621—6.3(20) Negotiability disputes.

6.3(1) Defined. A “negotiability dispute” is a dispute arising in good faith during the course of collective bargaining as to whether a proposal made during bargaining is a mandatory, permissive, or prohibited subject of collective bargaining under Iowa Code section 20.9.

6.3(2) Petitions for expedited resolution.

a. In the event that a negotiability dispute arises between the employer and the certified employee organization, either party may petition the agency for expedited resolution of the dispute. The petition shall be filed and set forth the following:

- (1) The name and address of the petitioner and the name, address, telephone number, and email address of the petitioner’s representative;
- (2) The name and address of the respondent and the name, address, telephone number, and email address of the respondent’s representative;
- (3) The material facts of the dispute; and
- (4) The verbatim text of the proposal at issue.

b. The petitioner shall promptly serve the other party with a copy of the petition and file proof thereof with the agency in accordance with 621—subrules 2.15(3) and 16.10(1).

6.3(3) Preliminary ruling. The agency will give priority to a petition for expedited resolution of a negotiability dispute. Parties will file informal position statements in support of their positions within the time specified by the agency, and the agency may set the matter for oral argument. The agency or appointed administrative law judge may issue a preliminary ruling, without analysis, that the proposal is mandatory, permissive, or prohibited.

6.3(4) Final ruling. Within 20 days following the issuance of a preliminary ruling, either party may request the agency to issue a final ruling, which will set forth the agency’s analysis and conclusions.

6.3(5) Arbitration. Unless the dispute is resolved prior to the arbitration hearing, the parties shall present evidence on all items to the arbitrator, including the item which is the subject of the negotiability dispute. A negotiability dispute raised at the arbitration hearing shall be upon written objection to the submission of the proposal to the arbitrator. The objection shall state that the objecting party will file a petition for resolution of the dispute with the agency, which petition shall be filed within five days of the making of the objection. Arbitrators shall rule on all items submitted to them including the item which is the subject of the negotiability dispute, unless explicitly stayed by the agency. Arbitration awards issued prior to the final determination of the negotiability dispute are contingent upon the agency’s determination.

6.3(6) *Negotiability outside of bargaining.* Questions of negotiability which do not arise during the course of bargaining are not negotiability disputes within the scope of this rule but may be posed to the agency by a petition for declaratory order filed pursuant to 621—Chapter 10.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 2308C, IAB 12/9/15, effective 1/13/16; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—6.4(20) Public safety unit determination.

6.4(1) *Applicability.* This rule applies only to bargaining units which include at least one public safety employee, as defined in 621—subrule 1.6(12) or as required by Iowa Code section 20.32 concerning certain transit employees.

6.4(2) *Defined.* A public safety unit is a bargaining unit in which at least 30 percent of the employees are public safety employees.

6.4(3) *Determination of public safety unit status.* A bargaining unit will constitute a public safety unit if at least 30 percent of the employees in the unit were public safety employees at any one time in the six months preceding the applicable date identified in subrule 6.4(7).

6.4(4) *Identification of public safety or non-public safety unit.* Parties engaging in negotiations for a collective bargaining agreement shall endeavor to agree upon and stipulate to the public safety or non-public safety status of the unit at issue.

6.4(5) *Agreement and stipulation.* If the parties are in agreement, the parties shall complete a stipulation form prescribed by the agency. The stipulation shall be signed by the authorized representatives of the parties, and the certified employee organization shall submit it to the agency by email, ordinary mail, or personal delivery.

6.4(6) *Petition, response and hearing for determination of public safety or non-public safety unit status.*

a. If the parties fail to reach agreement, the party asserting public safety unit status shall file a petition for determination of the unit status on or before the applicable date identified in subrule 6.4(7). The petition shall be on an agency-prescribed form and electronically filed. The petitioning party shall promptly serve the other party with a copy of the petition and file proof thereof with the agency in accordance with 621—subrules 2.15(3) and 16.10(1).

b. The non-petitioning party shall, within ten days following the filing of the petition with the agency, file a response asserting its basis for identifying the unit as a non-public safety unit.

c. Hearings on the petition shall be conducted pursuant to 621—Chapter 2. The public employer shall present its evidence first.

6.4(7) *Deadlines.* The stipulation shall be submitted or a petition filed on or before the dates indicated:

- a. August 1 for contracts that expire January 1 to March 31 of the subsequent year.
- b. November 1 for contracts that expire April 1 to June 30 of the subsequent year.
- c. February 1 for contracts that expire July 1 to September 30 of the same year.
- d. May 1 for contracts that expire October 1 to December 31 of the same year.

[ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—6.5(20) Voluntary settlement procedures.

6.5(1) *Terms made public.* Where the parties have reached a proposed (or “tentative”) collective bargaining agreement, the public employer shall make the terms of the agreement public.

6.5(2) *Ratification or rejection by employee organization.* Within seven days of the date of the tentative agreement, the employee organization shall conduct a ratification election on the tentative agreement. The employee organization shall give reasonable notice of the date, time and place of the election to the public employees; however, such notice shall be at least 24 hours prior to the election. The vote shall be by secret ballot, and the majority of votes cast will determine acceptance or rejection of the tentative agreement. Only members of the employee organization shall be entitled to vote; however, the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember

bargaining unit employees. The employee organization shall, within 24 hours of the conclusion of the election, serve notice on the public employer as to whether or not the proposed agreement has been ratified.

6.5(3) *Acceptance or rejection by public employer.* The public employer shall, within ten days of the tentative agreement, likewise meet to accept or reject the agreement, and shall within 24 hours of the acceptance or rejection serve notice on the employee organization of its acceptance or rejection of the proposed agreement; however, the public employer shall not be required to either accept or reject the tentative agreement if it has been rejected by the employee organization.

6.5(4) *Time limits.*

a. The above time limits may be modified by a written mutual agreement between the public employer and the employee organization.

b. The above time limits shall not apply to proposed agreements between the state and any bargaining unit of state employees.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 2308C, IAB 12/9/15, effective 1/13/16; ARC 3278C, IAB 8/30/17, effective 8/10/17]

621—6.6(20) Filing of agreement.

6.6(1) *Copy of agreement.* A public employer shall file a copy of the collective bargaining agreement entered into between the public employer and a certified employee organization and made final under Iowa Code chapter 20. Filing shall be completed by uploading the collective bargaining agreement into suPERB. The certified employee organization will be notified of the filing of the collective bargaining agreement through suPERB. The public employer shall file the copy within ten days of the date on which the agreement is entered into.

6.6(2) *Failure to file an agreement.* If an employer fails to file a finalized collective bargaining agreement within ten days of the date on which the agreement is entered into, the agency will order an in-person show cause hearing at the agency. The agency shall also provide notice of the show cause hearing to the certified employee organization. The agency may grant appropriate accommodation in the form of more time or take official notice of failure to comply with subrule 6.4(1) and Iowa Code section 20.29(2).

6.6(3) *Transit units.* When filing a collective bargaining agreement, an employer will designate a unit as public safety or transit if appropriate. The agency and employee organization will receive notification of the designation. Upon agreement from both parties or absent an agreement or ruling from the agency in a contested hearing, the agency will designate the unit appropriately in suPERB.

[ARC 2308C, IAB 12/9/15, effective 1/13/16; ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 7011C, IAB 5/3/23, effective 6/7/23]

These rules are intended to implement Iowa Code chapter 20.

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[Filed ARC 7011C (Notice ARC 6912C, IAB 2/22/23), IAB 5/3/23, effective 6/7/23]

CHAPTER 7
IMPASSE PROCEDURES

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

621—7.1(20) General. Except as provided in paragraph 7.5(6) “b,” the rules set forth in this chapter are applicable only in the absence of an impasse agreement between the parties or the failure of either to utilize its procedures. Nothing in these rules shall be deemed to prohibit the parties, by mutual agreement, from proceeding directly to binding arbitration at any time after impasse.

[ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—7.2(20) Fees of neutrals. See rule 621—14.4(20).

[ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—7.3(20) Mediation.

7.3(1) Request for mediation. Either party to an impasse may request that the agency assign a mediator by requesting mediation services. Requests for mediation services shall be uploaded through suPERB.

A copy of the request for mediation shall be emailed to the agency and, in addition to the request for mediation, must contain:

a. The name, address, and telephone number of the requesting party, and the name, address, telephone number, and email address of its bargaining representative or of the chairperson of its bargaining team.

b. The name, address, and telephone number of the opposing party to the impasse, and the name, address, telephone number, and email address of its bargaining representative or of the chairperson of its bargaining team.

c. A description of the collective bargaining unit involved and the approximate number of employees in the unit.

d. A statement indicating whether the public employer of the unit involved is subject to the budget certification requirements of Iowa Code section 24.17 and, if the public employer is not subject to those requirements, a statement of the date upon which the public employer’s next fiscal or budget year commences.

e. A statement indicating whether the bargaining unit is a public safety or non-public safety unit as specified by Iowa Code section 20.3 and rule 621—6.4(20).

f. A concise and specific listing of the negotiated items upon which the parties have reached impasse.

g. A statement from the requesting party indicating whether the parties anticipate utilizing mediation services or the parties are putting PERB on notice that the employer and certified employee organization have commenced bargaining of a new contract. If the original request is filed for the purpose of compliance with Iowa Code section 20.22(1) and is merely notice the employer and certified employee organization have commenced bargaining, and it is later determined mediation services will be required, an amended request for mediation shall be filed with the agency.

7.3(2) Date, signature and notice. The request for mediation shall be dated and signed by an authorized representative of the requesting party. The requesting party shall also mail or email a copy of the request to the other parties to the negotiations.

7.3(3) Appointment of mediator. Upon receipt of a request for mediation, the board may appoint an impartial and disinterested person as mediator of the dispute and notify all parties of the appointment of the mediator. The board shall determine the effective date of this appointment.

7.3(4) Confidential nature of mediation. Any information, either written or oral, disclosed by the parties to the mediator in the performance of mediation duties shall not be discussed by the mediator voluntarily or by compulsion unless approved by the parties involved or permitted by Iowa Code section 20.31.

The mediator shall not disclose any information with regard to any mediation conducted on behalf of any party to any cause pending in a proceeding before a court, board, investigatory body or arbitrator, except as permitted by Iowa Code section 20.31, without the written consent of the public employment relations board. Without such written consent, the mediator shall respectfully decline, by reason of this rule, to divulge any information disclosed by a party in the performance of the mediator's duties.

7.3(5) Mediation proceedings. The mediator may hold separate or joint meetings with the parties or their representatives, and those meetings shall not be public. Mediation meetings shall be conducted at a time and place designated by the mediator. If an impasse exists ten days after the effective date of the appointment of a mediator, the mediator shall so notify the board.

7.3(6) Board mediator. When the mediator is an employee of the Public Employment Relations Board, that mediator shall not participate in any contested case arising out of any transaction or occurrence relating to those mediation activities.

7.3(7) Costs of mediation. The mediator shall submit in writing to the board a list of fees and expenses.

[ARC 8317B, IAB 12/2/09, effective 11/1/09; ARC 8338B, IAB 12/2/09, effective 11/10/09; ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 4457C, IAB 5/22/19, effective 6/26/19; ARC 5631C, IAB 5/19/21, effective 6/23/21; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—7.4(20) Fact-finding. Rescinded IAB 7/28/10, effective 9/1/10.

621—7.5(20) Binding arbitration.

7.5(1) Request for arbitration. If the dispute remains unresolved ten days after the effective date of the appointment of the mediator, either party to the impasse may request the board to arrange for binding arbitration.

7.5(2) Form and contents of request. The request for arbitration shall be filed with the agency through suPERB and shall include the name, address, email address, and signature of the requesting party and the capacity in which the requesting party is acting.

7.5(3) Service of request. The requesting party shall mail or email a copy of the request for arbitration to the opposing party.

7.5(4) Exchange of final offers. Within four days of the board's receipt of the request for arbitration, each party shall mail or email its final offer on each of the impasse items to the other party to the impasse. Final offers shall not be amended. A party shall not submit a final offer for arbitration which has not been offered to the other party in the course of negotiations.

7.5(5) Selection of arbitrator. Upon the filing of a timely request for arbitration, the board shall email a list of five arbitrators to the parties. Within five days from when that email is sent, the parties shall select their arbitrator from the list in the manner specified in Iowa Code section 20.22(4).

7.5(6) Date and conduct of hearings.

a. Impasse items are deemed submitted to binding arbitration on the date of the commencement of the arbitration hearing, regardless of its duration. In disputes where the public employer is a community college, or where all or a portion of the public employees in the bargaining unit are teachers licensed under Iowa Code chapter 272 and the public employer is a school district or area education agency, the submission of impasse items to binding arbitration shall occur not later than May 13 of the year when the resulting collective bargaining agreement is to become effective.

b. Arbitration hearings shall be open to the public and shall be recorded either by mechanized means or by a certified shorthand reporter.

c. The arbitration hearing shall be limited to those factors listed in Iowa Code section 20.22 and subrules 7.5(7) and 7.5(8) and such other relevant factors as may enable the arbitrator to select the most reasonable offer, in the arbitrator's judgment, of the final offers submitted by the parties on each impasse item. Arbitrators appointed pursuant to impasse procedures agreed upon by the parties shall likewise consider these same factors.

During the hearing, the parties shall not introduce, and the arbitrator shall not accept or consider, any direct or indirect evidence regarding any subject excluded from negotiations pursuant to Iowa Code section

20.9, except as required for purposes of the consideration of the factors specified in subrule 7.5(7) and paragraph 7.5(8)“a.”

7.5(7) *Arbitration involving a bargaining unit that has at least 30 percent of members who are public safety employees.* The arbitrator shall consider and specifically address in the arbitrator’s determination, in addition to any other relevant factors, the following factors:

a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.

b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.

7.5(8) *Arbitration involving a bargaining unit that does not have at least 30 percent of members who are public safety employees.*

a. The arbitrator shall consider and specifically address in the arbitrator’s determination, in addition to any other relevant factors, the following factors:

(1) Comparison of base wages, hours, and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved. To the extent adequate, applicable data is available, the arbitrator shall also compare base wages, hours, and conditions of employment of the involved public employees with those of private sector employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

(2) The interests and welfare of the public.

(3) The financial ability of the employer to meet the cost of an offer in light of the current economic conditions of the public employer. The arbitrator shall give substantial weight to evidence that the public employer’s authority to utilize funds is restricted to special purposes or circumstances by state or federal law, rules, regulations, or grant requirements.

b. The arbitrator shall not consider the following factors:

(1) Past collective bargaining agreements between the parties or bargaining that led to such agreements.

(2) The public employer’s ability to fund an award through the increase or imposition of new taxes, fees, or charges or to develop other sources of revenue.

c. The arbitrator’s award on the impasse item of base wages shall not exceed the lesser of the following percentages in any one-year period in the duration of the bargaining agreement:

(1) Three percent.

(2) A percentage equal to the increase in the consumer price index for all urban consumers for the Midwest region, if any, as provided by the agency.

d. Should the final offers of both parties on the impasse item of base wages exceed the lesser of the percentages specified in paragraph 7.5(8)“c,” the arbitrator shall select neither of the parties’ offers, but shall instead award the lesser of the amounts listed in that paragraph.

7.5(9) *Continued bargaining.* The parties may continue to bargain on the impasse items before the arbitrator until the arbitrator’s selections are made. Should the parties reach agreement on an impasse item following its submission to arbitration, they shall immediately report their agreement to the arbitrator. The agreed upon term shall be incorporated into the parties’ collective bargaining agreement, and the arbitrator shall no longer consider the final offers of the parties on that impasse item.

7.5(10) *Report of the arbitrator.* With respect to each impasse item, the arbitrator’s award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitrator, except as provided in paragraph 7.5(8)“c.” Within 15 days after the arbitration hearing, the arbitrator shall issue a written award specifying and explaining the arbitrator’s selections and serve each party and the board with a copy by ordinary mail or by email.

7.5(11) *Dismissal of arbitrator.* In the event of a failure of the arbitrator to issue an award within 15 days after the arbitration hearing, the arbitrator shall notify the board and the parties of this failure. Either

party may thereafter request a new arbitrator. Unless the parties agree otherwise, the procedures in this rule shall apply; provided, however, that the parties may submit new final offers. No arbitrator shall issue a partial award except by mutual consent of the parties.

7.5(12) *Costs of arbitration.* The arbitrator shall submit to the parties a written statement of fees and expenses with a copy sent to the board. The parties shall share the costs of arbitration equally.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 4457C, IAB 5/22/19, effective 6/26/19; ARC 5631C, IAB 5/19/21, effective 6/23/21; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—7.6(20) Impasse procedures after completion deadline.

7.6(1) *Objections.* Any objection by a party to mediation or the conduct of arbitration proceedings which will not be completed by the applicable deadline for completion of impasse procedures shall be filed with the agency in accordance with rule 621—16.4(20). The objecting party shall promptly serve the other party with a copy of the objection and file proof thereof with the agency in accordance with 621—subrules 2.15(3) and 16.10(1). The objection shall be filed and served no later than 10 days after the filing with the agency of the request for mediation or arbitration to which the objection refers. For purposes of this rule, a single-party request for mediation which is filed more than 120 days prior to the applicable deadline for completion of impasse procedures or a request for arbitration which is filed prior to the filing period specified in subrule 7.5(1) shall be deemed filed on the first day of that filing period. Failure to file an objection in a timely manner may constitute waiver of such objection, in which case the applicable deadline for completion of impasse procedures shall not apply.

7.6(2) *Response to objection.* The nonobjecting party may, within 10 days following the filing of an objection with the board, file a response asserting that, because of deliberate delay on the part of the objecting party, or unavoidable casualty, misfortune or other events beyond the parties' control, impasse procedures should continue beyond the applicable deadline. A response may additionally or alternatively assert that the deadline relied upon by the objecting party is inapplicable for reasons set forth in the response, or may assert other reasons why impasse procedures should not be terminated. If a response is not filed within the time allowed by this subrule, the board may issue an order terminating further impasse procedures.

7.6(3) *Procedure.* Filing of an objection before the applicable deadline for completion of impasse procedures shall not affect the obligation of each party to continue the impasse procedures. Further, the board may postpone hearing on the objection if it determines that mediation may take place or that an arbitration award may be rendered on or before the applicable deadline. In making that determination, the board will attempt to expedite any remaining impasse proceedings, but no party shall be required to waive or shorten any mandatory statutory time periods which apply to that party.

7.6(4) *Hearings.* Insofar as is applicable, hearings on a party's objection shall be conducted pursuant to 621—Chapter 2. The nonobjecting party shall proceed first and shall have the burden to show that impasse procedures should not be terminated. The board shall then issue a final order that further impasse procedures should be completed or should continue for a specified period of time or should be terminated.

7.6(5) *Objections.* Objections and relevant documents to the objection shall be filed in the electronic document management system (EDMS).

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—7.7(20) Impasse procedures for state employees.

7.7(1) *Procedures.* Statutory procedures in Iowa Code sections 20.20 to 20.22, and independent impasse procedures negotiated by the parties must provide that the impasse be submitted to binding arbitration and the arbitration hearing concluded no later than February 28, and that any arbitrator's award will be issued on or before March 15. This rule does not preclude the parties from mutually agreeing to a date other than February 28, but the agreement must result in an arbitration award on or before March 15.

7.7(2) *Procedures for state agreements effective in a year following an Iowa Code section 39.9 gubernatorial election.*

a. A ratification election referred to in Iowa Code section 20.17(4) shall not be held and the parties shall not request arbitration pursuant to Iowa Code section 20.22(1) until at least two weeks after the beginning date of the governor's term of office.

b. Within five days from the beginning date of the governor's term of office, the governor shall accept or reject a proposed statewide collective bargaining agreement if one exists. If the proposed agreement is rejected, the parties shall commence bargaining anew in accordance with Iowa Code section 20.17 and exchange initial proposals within the same five-day period.

c. Negotiations shall be complete not later than March 15 of that year unless the parties mutually agree to a different deadline.

d. The parties shall mutually agree to alternative deadlines for the completion of bargaining procedures set forth in Iowa Code sections 20.19, 20.20, and 20.22 to ensure the completion of negotiations not later than March 15 or other mutually agreeable deadline.

7.7(3) *Independent procedures.* Independent impasse procedures negotiated by the parties must provide that the impasse will be submitted to binding arbitration, and any hearing thereon concluded no later than February 28, and that any arbitrator's award will be issued on or before March 15.

7.7(4) *Statutory procedures.* In the absence of independent procedures, the procedures in Iowa Code sections 20.20 and 20.22 and rules 621—7.1(20) to 621—7.5(20) shall apply, except that a single-party request for mediation must be filed no later than December 14, a request for binding arbitration must be filed by February 1, and an arbitration hearing must be concluded no later than February 28.

7.7(5) *New certifications.* Statutory impasse procedures under these rules shall not be available if the employee organization has been certified later than December 1. This rule does not preclude the parties from negotiating independent impasse procedures if an employee organization is certified after December 1 and the procedures will result in an arbitration award on or before March 15.

7.7(6) *Negotiability disputes.* Disputes concerning the negotiability of any subject of bargaining shall be submitted to the board for determination pursuant to 621—6.3(20) no later than March 1. An arbitration award rendered prior to final determination of the negotiability dispute will be made conditional upon such determination. Notwithstanding the provisions of 621—2.19(20), no stay of impasse procedures will be granted during the pendency of any negotiability dispute, petition for declaratory order, or prohibited practice complaint.

7.7(7) *EDMS.* Negotiability disputes concerning state employees and relevant documents to the objection shall be filed in EDMS.

This rule is intended to implement Iowa Code section 20.17.

[ARC 8953B, IAB 7/28/10, effective 9/1/10; ARC 3803C, IAB 5/9/18, effective 6/13/18; ARC 7011C, IAB 5/3/23, effective 6/7/23]

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¹ Effective date of 7.2 delayed by the Administrative Rules Review Committee 45 days after convening of the next General Assembly pursuant to §17A.8(9).

CHAPTER 8
INTERNAL CONDUCT OF EMPLOYEE ORGANIZATIONS

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

621—8.1(20) Requirements. Before the agency certifies an employee organization as the exclusive representative of a bargaining unit, the employee organization shall upload in suPERB a registration report, constitution and bylaws, and an annual report. Once certified, the certified employee organization shall thereafter file an annual report as required by rule 621—8.4(20) and a registration report and constitution and bylaws whenever its constitution or bylaws are amended as required by rules 621—8.2(20) and 621—8.3(20).

[ARC 2916C, IAB 1/18/17, effective 2/22/17; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—8.2(20) Registration report.

8.2(1) Time of filing. An employee organization shall file a complete registration report:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit; and

b. Once the employee organization is certified, whenever changes or amendments are made to its constitution or bylaws; or

c. When the certified employee organization files a petition to amend its certification.

8.2(2) Form and content. The registration report shall be on the form prescribed by the agency.

8.2(3) Method of filing. The registration report shall be uploaded in suPERB pursuant to 621—Chapter 16.

[ARC 2916C, IAB 1/18/17, effective 2/22/17; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—8.3(20) Constitution and bylaws.

8.3(1) Time of filing. An employee organization shall file its constitution and bylaws:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit; and

b. Once the employee organization is certified, whenever changes or amendments are made to its constitution or bylaws; or

c. When the certified employee organization files a petition to amend its certification.

8.3(2) Form and content.

a. The constitution or bylaws of every employee organization shall provide that:

(1) Accurate accounts of all income and expenses shall be kept, and an annual financial report and an audit shall be prepared, such accounts shall be open for inspection by any member of the organization, and loans to officers and agents shall be made only on terms and conditions available to all members.

(2) Business or financial interests of its officers and agents, their spouses, minor children, parents or otherwise, that conflict with the fiduciary obligation of such persons to the organization shall be prohibited.

(3) Every official or employee of an employee organization who handles funds or other property of the organization, or trust in which an organization is interested, or a subsidiary organization, shall be bonded in an amount and form determined by the agency.

(4) Periodic elections by secret ballot shall be conducted subject to recognized safeguards concerning the equal rights of all members to nominate, seek office, and vote in such elections; that individual members have the right to participate in the affairs of the organization; and that there are fair and equitable procedures in disciplinary actions.

b. The employee organization's national or international constitution and bylaws shall be accepted in lieu of the employee organization's constitution and bylaws provided that such national or international constitution and bylaws conform to the requirements of Iowa Code section 20.25.

8.3(3) Method of filing. The constitution and bylaws shall be uploaded in suPERB pursuant to 621—Chapter 16.

[ARC 2916C, IAB 1/18/17, effective 2/22/17; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—8.4(20) Annual report.

8.4(1) *Time of filing.* An employee organization shall file a complete annual report:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit; and

b. Once the employee organization is certified, within 90 days following the certified employee organization's fiscal year end; and

c. When the certified employee organization files a petition to amend its certification.

8.4(2) *Form and content.* The annual report shall be on the form prescribed by the board and uploaded in suPERB and shall contain:

a. The names, addresses, email addresses, and telephone numbers of the organization, any parent organization or organizations with which it is affiliated, the principal officers and all representatives.

b. The name, address, email address, and telephone number of its local agent for service of process.

c. A general description of the public employees the organization represents or seeks to represent.

d. The amounts of the initiation fee and monthly dues members must pay.

e. A pledge, in a form prescribed by the board, that the organization will comply with the laws of the state and that it will accept members without regard to age, race, sex, religion, national origin or physical disability, as provided by law.

f. A financial report and audit.

(1) The financial report shall contain, at a minimum, the following information: the cash balance from the previous year; a listing of sources and amounts of income; an identified listing of disbursements; and a closing balance. For the first annual report filed by an employee organization, the financial report shall reflect the last completed fiscal year of the organization or, in the case of a new organization, the last completed quarter or quarters of the current fiscal year. For annual reports filed mid-fiscal year with petitions for amendment of certification, the financial report shall reflect the last completed quarter or quarters of the current fiscal year.

(2) The audit shall consist of a statement that the financial report has been reviewed and found to be true and accurate. The audit must be signed by an auditing committee or a person or persons who hold no office in the employee organization and who did not prepare the financial report.

g. The name(s) of the person(s) required to be bonded pursuant to rule 621—8.5(20), the amount of the bond, and the name of the corporate surety company that issued the bond(s).

8.4(3) *Method of filing.* The annual report shall be uploaded in suPERB pursuant to 621—Chapter 16. [ARC 2916C, IAB 1/18/17, effective 2/22/17; ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—8.5(20) Bond required. Every person required by Iowa Code section 20.25(3) "c" to be bonded shall be bonded to provide protection against loss by reason of act of fraud or dishonesty on the part of such person, directly or through connivance with others.

8.5(1) *Bond requirements.* The bond of each such person shall be fixed at the beginning of the employee organization's fiscal year and shall be in an amount of not less than 10 percent of the funds handled by such person or that person's predecessor or predecessors, if any, during the preceding fiscal year, but in no case less than \$2,000 nor more than \$500,000. If the employee organization or the trust in which an employee organization is interested does not have a preceding fiscal year, the amount of the bond shall not be less than \$2,000. Such bonds shall have a corporate surety company as surety thereon.

8.5(2) *Prohibitions.* Any person who is not covered by such bonds shall not be permitted to receive, handle, disburse or otherwise exercise control of the funds or other property of an employee organization or of a trust in which an employee organization is interested. No such bond shall be placed through an agent or broker or with a surety company in which any employee organization or any officer, agent, shop steward or other representative of an employee organization has any direct or indirect interest.

[ARC 2916C, IAB 1/18/17, effective 2/22/17]

621—8.6(20) Trusteeships.

8.6(1) *Application and establishment.* Prior to establishing a trusteeship, an organization shall file an application to establish or administer a trusteeship over a subordinate employee organization certified by the agency. The organization shall attach a copy of its constitution and bylaws to its application.

a. The board will review the organization's constitution and bylaws and permit the establishment of a trusteeship if the trusteeship procedures are reasonable.

b. Trusteeships shall be established or administered by an organization over a subordinate employee organization only in accordance with the constitution or bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures or otherwise carrying out the legitimate objectives of the employee organization.

8.6(2) *Reports.*

a. Every organization which assumes trusteeship over any subordinate employee organization shall file with the agency within 30 days after the imposition of any such trusteeship, and semiannually thereafter, a report, signed by its president and treasurer or corresponding principal officers, as well as by the designated trustees of such subordinate employee organization, containing the following information:

- (1) The name and address of the subordinate employee organization;
- (2) The date of the establishment of the trusteeship;
- (3) A detailed statement of the reason for the establishment or the continuation of the trusteeship; and
- (4) The nature and extent of participation by the membership of the subordinate employee organization in the selection of delegates to represent such employee organization in regular or special conventions or other policy-determining bodies and in the election of officers of the organization which has assumed trusteeship over the employee organization.

b. The initial report of the establishment of the trusteeship shall include a full and complete account of the financial condition of the subordinate employee organization as of the time trusteeship was assumed over it.

8.6(3) *Continuing duty to report.* During the continuance of a trusteeship, the organization which has assumed trusteeship over a subordinate employee organization shall file on behalf of the subordinate employee organization all reports required by this chapter. Such reports shall be signed by the president and treasurer or corresponding principal officers of the organization which has assumed such trusteeship and the designated trustees for the subordinate employee organization.

8.6(4) *Method of filing.* The application and any required reports shall be electronically filed in the electronic document management system (EDMS) pursuant to 621—Chapter 16.

[ARC 2916C, IAB 1/18/17, effective 2/22/17; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—8.7(20) Failure to comply with employee organization requirements. The agency shall not certify an employee organization or may revoke the existing certification(s) of an employee organization for failure to file a registration report, its constitution and bylaws, or an annual report or otherwise fail to comply with Iowa Code section 20.25.

8.7(1) *Upon completion of a valid certification election.* If an employee organization fails to file a registration report, constitution and bylaws, or annual report or otherwise comply with these rules or Iowa Code section 20.25 within 90 days following the completion of a valid certification election, the agency will not certify the employee organization and will serve notice of noncertification. The agency may grant extensions of time for good cause.

8.7(2) *Failure to file reports once certified.* If an employee organization fails to file a registration report, constitution and bylaws, or annual report or otherwise comply with these rules and Iowa Code section 20.25, the agency may revoke the certification of the employee organization. When the organization fails to comply following notice of its noncompliance, the agency will order the employee organization to show cause why its certification should not be revoked and set the matter for hearing.

8.7(3) *Complaints by affected parties.* A complaint that any employee organization has engaged in or is engaging in any practice which constitutes a violation of Iowa Code section 20.25 may be submitted in writing to the board by any affected person. Upon receipt of a complaint, the agency shall

serve a copy upon the employee organization by certified mail, return receipt requested. The board shall conduct a preliminary investigation of the alleged violation. In conducting the investigation, the board may require the production of evidence, including affidavits and documents. If the investigation shows there is no reasonable cause to believe a violation has occurred, the complaint shall be dismissed and the parties notified. If the investigation shows reasonable cause to believe a violation has occurred, the board shall notify the parties. If the parties are unable to agree on an informal settlement after notification of reasonable cause, the board shall schedule the complaint for hearing.

[ARC 2916C, IAB 1/18/17, effective 2/22/17; ARC 3278C, IAB 8/30/17, effective 8/10/17]

These rules are intended to implement Iowa Code chapter 20.

[Filed 3/4/75]

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[Filed ARC 2916C (Notice ARC 2817C, IAB 11/23/16), IAB 1/18/17, effective 2/22/17]

[Filed Emergency ARC 3278C, IAB 8/30/17, effective 8/10/17]

[Filed ARC 7011C (Notice ARC 6912C, IAB 2/22/23), IAB 5/3/23, effective 6/7/23]

CHAPTER 9
ADMINISTRATIVE REMEDIES

Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026. See Uniform Rules on Agency Procedure at 7—Chapters 2500 through 2506 and any corresponding rules adopted by this agency.

CHAPTER 10
DECLARATORY ORDERS

Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026. See Uniform Rules on Agency Procedure at 7—Chapters 2500 through 2506 and any corresponding rules adopted by this agency.

CHAPTER 11
STATE EMPLOYEE APPEALS OF GRIEVANCE DECISIONS
AND DISCIPLINARY ACTIONS

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

621—11.1(8A,20) Notice of appeal rights. When the director of the Iowa department of administrative services (hereinafter referred to as the director) issues a response to an employee pursuant to Iowa Code section 8A.415 and the response does not grant the relief sought by the employee, the response shall include notice to the affected employee that the employee may appeal the response by filing an appeal with the public employment relations board within 30 days of the date of the director's response.

[ARC 2916C, IAB 1/18/17, effective 2/22/17]

621—11.2(8A,20) Filing of appeal.

11.2(1) Grievances. An employee, except an employee covered by a collective bargaining agreement that provides otherwise, who has filed a grievance and is not satisfied with the director's response, may file an appeal with the agency. Such appeal must be filed within 30 calendar days following the date the director's response was issued. However, if no response was issued by the director within 30 calendar days following the filing of the third-step grievance with the director, the employee may consider the grievance denied and file an appeal with the agency or may await the director's response and, if not satisfied, file an appeal within 30 days following the date the response is issued.

11.2(2) Disciplinary appeals. A nonprobationary merit system employee as described in Iowa Code section 8A.412, except an employee covered by a collective bargaining agreement, who is discharged, suspended, demoted, or otherwise receives a reduction in pay, and who appeals the action to the director and is not satisfied with the director's response, may file an appeal with the agency. Such appeal must be filed within 30 calendar days following the date the director's response was issued. However, if no response was issued by the director within 30 calendar days following the filing of the third-step grievance with the director, the employee may consider the grievance denied and file an appeal with the agency or may await the director's response and, if not satisfied, file an appeal within 30 days following the date the response is issued.

11.2(3) Method of filing. Appeals shall be electronically filed pursuant to 621—Chapter 16.

[ARC 2916C, IAB 1/18/17, effective 2/22/17]

621—11.3(8A,20) Service of appeal. The agency shall serve a copy of the appeal upon the director by ordinary mail in the manner specified in rules 621—2.15(20) and 621—16.10(20).

[ARC 2916C, IAB 1/18/17, effective 2/22/17]

621—11.4(8A,20) Content of appeal.

11.4(1) The appeal shall contain the following:

- a. Name, address, telephone number, and e-mail address of the appealing employee;
- b. Name of agency/department by which the appealing employee is/was employed;
- c. A brief statement of the reasons for the appealing employee's dissatisfaction with the director's response;
- d. A statement of the requested remedy;
- e. The name, address, telephone number, and e-mail address of the appealing employee's representative, if any;
- f. Signature of the appealing employee or employee's representative; and
- g. In the case of a disciplinary action appeal filed pursuant to Iowa Code section 8A.415(2), a statement of whether the employee requests a hearing open to the public.

11.4(2) Completion of the State Employee Grievance and Disciplinary Action Appeal Form shall constitute compliance with all the requirements in subrule 11.4(1).

[ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 2916C, IAB 1/18/17, effective 2/22/17]

621—11.5(8A,20) Content of director's response to the appeal.

11.5(1) The director shall have 15 days from the date of service of the employee's appeal in which to file a motion or answer with the agency.

11.5(2) The motion or answer shall contain the following:

- a. The names of the appealing employee and the employing agency/department;
- b. The name, address, telephone number, and e-mail address of the employing agency's/department's representative;
- c. A copy of the original grievance and first-, second-, and third-step responses issued; and
- d. Signature of the employing agency's/department's representative.

11.5(3) The director's motion or answer shall be electronically filed pursuant to 621—Chapter 16.

[ARC 2916C, IAB 1/18/17, effective 2/22/17]

621—11.6(8A,20) Right to a hearing. An employee appealing a grievance pursuant to Iowa Code section 8A.415(1) has a right to a hearing, which is open to the public. An employee appealing disciplinary action pursuant to Iowa Code section 8A.415(2) has a right to a hearing, which is closed to the public unless the employee requests a hearing open to the public. Hearings will otherwise be conducted in accordance with 621—Chapter 2.

[ARC 2916C, IAB 1/18/17, effective 2/22/17]

621—11.7(8A,20) Final decisions.

11.7(1) When a majority of the board presides at the reception of the evidence in a grievance or disciplinary action appeal, the decision of the board is the final decision of the agency.

11.7(2) When a majority of the board does not preside at the reception of the evidence in a grievance or disciplinary appeal, the presiding officer shall make a proposed decision that becomes the final decision of the agency without further proceedings unless:

- a. There is a petition for the board's review filed within 20 days of the filing of the proposed decision, or
- b. The board, within 20 days of the filing of the proposed decision, determines to review the decision on its own motion.

[ARC 2916C, IAB 1/18/17, effective 2/22/17]

621—11.8(8A,20) Review by board. Proceedings on the board's review of the proposed decision shall be in accordance with 621—Chapter 9.

[ARC 2916C, IAB 1/18/17, effective 2/22/17]

621—11.9(8A,20) Costs of certified shorthand reporters and transcripts.

11.9(1) Initial payment. The agency will arrange for a certified shorthand reporter to report the contested case hearing and request that an original transcript of the hearing be prepared by the reporter for the agency's use. The agency initially shall pay the reporter's reasonable compensation for reporting the hearing and producing the agency-requested transcript.

11.9(2) Taxation as costs. The cost of reporting and of the agency-requested transcript shall be taxed as costs against the nonprevailing party or parties although the presiding officer, or the board on appeal or review of a proposed decision and order, may apportion such costs in another manner if appropriate under the circumstances.

11.9(3) Payment of taxed costs. Following final agency action in a case, the agency will prepare and serve a bill of costs upon the party or parties against whom the costs have been taxed. Those parties shall, within 30 days of such service, remit to the agency the amount specified in the bill of costs. Sums remitted to the agency shall be considered repayment receipts as defined in Iowa Code section 8.2.

[ARC 3278C, IAB 8/30/17, effective 8/10/17]

621—11.10(8A,20) Other rules. Any matters not specifically addressed by the rules contained in this chapter shall be governed by the general provisions of the rules of the agency.

[ARC 2916C, IAB 1/18/17, effective 2/22/17; ARC 3278C, IAB 8/30/17, effective 8/10/17]

These rules are intended to implement Iowa Code chapters 8A and 20.

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[Filed ARC 2916C (Notice ARC 2817C, IAB 11/23/16), IAB 1/18/17, effective 2/22/17]
[Filed Emergency ARC 3278C, IAB 8/30/17, effective 8/10/17]

CHAPTER 12
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

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

621—12.1(17A,20,22) Definitions. As used in this chapter:

“*Agency*” means the public employment relations board or PERB.

“*Confidential record*” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“*Custodian*” means the board or a person lawfully delegated authority to act for the agency in implementing Iowa Code chapter 22.

“*Open record*” means a record other than a confidential record.

“*Personally identifiable information*” means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“*Record*” means the whole or a part of a public record as defined in Iowa Code section 22.1.

“*Record system*” means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

“*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 or is maintained. “Routine use” includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

[ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—12.2(17A,20,22) Statement of policy. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—12.3(17A,20,22) Requests for access to records. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—12.4(17A,20,22) Procedures for access to confidential records. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—12.5(17A,20,22) Requests for treatment of a record as a confidential record and its withholding from examination. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—12.6(17A,20,22) Consent to disclosure by the subject of a confidential record. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—12.7(17A,20,22) Disclosures without the consent of the subject. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—12.8(17A,20,22) Routine use. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—12.9(17A,20,22) Consensual disclosure of confidential records. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—12.10(17A,20,22) Release to subject. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—12.11(17A,20,22) Availability of records. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

621—12.12(17A,20,22) 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 621—12.1(17A,20,22). Unless otherwise stated, the authority for this agency to maintain the record is provided by Iowa Code chapter 20, the statutes governing the subject matter of the record, and the enabling statutes of the agency, where applicable. The record systems maintained by the agency are:

12.12(1) Prohibited practice complaint case files. These files contain information which pertains to the alleged violation of Iowa Code chapter 20. A person, employee organization or public employer may file the documents contained in this type of case. Case files may include pleadings, briefs, notices, rulings, decisions, orders, exhibits, transcripts, docket sheets, general correspondence, attorneys' notes, settlement offers, memoranda, and research materials. Cases contain personal information of the representatives and may contain personal information if the complainant or respondent is an individual. Further personal information may be included in testimony, exhibits, and other documents. Cases filed prior to January 1, 2015, are contained on the agency's network. Cases filed after January 1, 2015, are contained within the agency's electronic document management system. If the case went to hearing, the hearing may have been recorded by mechanical means, and a copy of the recording may be available. The files are maintained by the agency and are indexed by the case number. The files may contain materials which are confidential as attorney work product or contain settlement offers and mediators' documents. Some materials are confidential under other applicable provisions of law. Copies of documents or hearing recordings filed in these cases may be obtained through the agency or the agency's electronic document management system.

12.12(2) Bargaining unit determination and representative certification case files. These files contain information which pertains to the establishment of appropriate bargaining units, conduct of secret ballot elections and monitoring of the merger, and affiliation and disaffiliation of certified employee organizations. A person, employee organization or public employer may file the documents contained in these types of cases. Case files may include pleadings, briefs, tally of ballots, notices, rulings, decisions, orders, exhibits, transcripts, docket sheets, general correspondence, attorneys' notes, settlement offers, memoranda, research materials, and investigation materials. Cases contain personal information of the representatives and may contain personal information if the petitioner or respondent is an individual. Further personal information may be included in transcript testimony, exhibits, and other documents. Cases filed prior to January 1, 2015, are contained on the agency's network. Cases filed after January 1, 2015, are contained within the agency's electronic document management system. If the case went to hearing, the hearing may have been recorded by mechanical means, and a copy of the recording may be available. The files are maintained by the agency and are indexed by the case number. Further personal information may be included in testimony and exhibits. The files may contain materials which are confidential as attorney work product, shows of interest, settlement offers and mediators' notes. Some materials are confidential under other applicable provisions of law. Copies of documents or hearing recordings filed in these cases may be obtained through the agency or the agency's electronic document management system.

12.12(3) Retention and recertification election case files. These files contain information which pertains to the conduct of a retention and recertification election. A person, employee organization or public employer may file the documents contained in this type of case. Case files include pleadings, notices, voter lists, tally of ballots, orders, challenges, and objections. Cases contain personal information of the representatives. Further personal information may be included in testimony, exhibits, and other documents. The public employer is required to send to the agency a listing of employees eligible to vote in the recertification elections. The files located on the agency's network may contain materials which are confidential as attorney work product, shows of interest, settlement offers and mediators' notes. Some materials are confidential under other applicable provisions of law. Copies of documents filed in these cases may be obtained through the agency or the agency's electronic document management system.

12.12(4) Negotiability dispute case files. These files contain information which pertains to specific contract proposals and whether a specific contract proposal is a mandatory, permissive or excluded subject of bargaining under Iowa Code section 20.9. An employee organization or public employer may file the documents contained in this type of case. Such files contain documents concerning the agency's determination of the negotiability question. The records may include pleadings, briefs, notices, rulings, orders, exhibits, transcripts, docket sheets, general correspondence, attorneys' notes, memoranda, research materials, and information compiled under the direction of the agency. Cases contain personal information of the representatives. Cases filed prior to January 1, 2015, are contained on the agency's network. The files may contain materials which are confidential as attorney work product and contain settlement offers and mediators' documents. Some materials are confidential under other applicable provisions of law. Cases filed after January 1, 2015, are contained within the agency's electronic document management system. If the case went to hearing, the hearing may have been recorded by mechanical means, and a copy of the recording may be available. The files are maintained by the agency and are indexed by the case number. Copies of documents or hearing recordings filed in these cases may be obtained through the agency or the agency's electronic document management system.

12.12(5) Declaratory order case files. These files contain information which pertains to applicability of a statute, rule or order within the primary jurisdiction of the agency. A person, employee organization or public employer may file the documents contained in this type of case. Such files contain documents concerning the agency's determination of that question. The records may include pleadings, notices, rulings, orders, exhibits, transcripts, docket sheets, general correspondence, attorneys' notes, memoranda, research materials, and information compiled under the direction of the agency. Cases contain personal information of the representatives and may contain personal information of the petitioner or respondent if the petitioner or respondent is an individual. Further personal information may be included in testimony, exhibits, and other documents. Cases filed prior to January 1, 2015, are contained on the agency's network. Cases filed after January 1, 2015, are contained within the agency's electronic document management system. If the case went to hearing, the hearing may have been recorded by mechanical means, and a copy of the recording may be available. The files may contain materials which are confidential as attorney work product, settlement offers and mediators' notes. Some materials are confidential under other applicable provisions of law. The files are maintained by the agency and are indexed by the case number. Copies of documents or hearing recordings filed in these cases may be obtained through the agency or the agency's electronic document management system.

12.12(6) Contract negotiation impasse files. These files contain information which pertains to the public employer and certified employee organization's negotiations. An employee organization or public employer may file the documents contained in the file. The records may include the request for impasse services, assignment of a mediator, interest arbitration list, selection letters, and correspondence regarding mediation and interest arbitration hearings. Mediators may maintain assigned impasse files which contain confidential documents related to the mediation. Files contain personal information of the representatives. The files are maintained by the agency and are indexed by the bargaining unit number. Electronic files will be kept for up to five years following the close of the arbitration. Copies of the documents contained in the files may be obtained through the agency.

12.12(7) Neutral files. The agency maintains biographical data on qualified mediators and arbitrators. A mediator's file contains an application, an acceptance letter, and the yearly mediator contract. An arbitrator's file contains an application, an acceptance letter, renewal applications, biographical sketches, letters of recommendation, a résumé, and decisions. Neutral files may also contain concerns expressed by employees or employer and employee organization representatives, material related to agency-conducted investigations, and information on hearings and decisions issued by the agency. Cases contain personal information of the representatives and may contain personal information of the petitioner or respondent if the petitioner or respondent is an individual. Further personal information may be included in testimony, exhibits, and other documents. Neutral files contain personal information of the neutral and may contain personal information of employees and employer and employee organization representatives if they provide written comments regarding a neutral. The files may contain materials which are confidential as attorney work product, settlement offers and mediators' notes. Some materials are confidential under

other applicable provisions of law. The files are maintained by the agency and are commonly indexed by the neutral's last name. Biographical sketches of neutrals are located on the agency's website. Copies of documents contained in these files may be obtained through the agency.

12.12(8) Employee organization files. Employee organizations are required to file certain documents with the agency prior to certification and annually. An employee organization's representative files the documents contained in the file. The records include the certified employee organization's constitution and bylaws, amended constitution and bylaws, registration reports, annual reports, correspondence, bargaining unit description and subsequent amendments. The employee organization files contain personal information of the representatives. Further personal information may be included in testimony and exhibits. Employee organization files are electronic and can be located in suPERB. The files are maintained by the agency and are indexed by the certified employee organization in paper files and by certified employee organization number if the files are on the agency's electronic document management system. Copies of the documents contained in these files may be obtained through the agency or the agency's electronic document management system.

12.12(9) State employee appeals of grievance decisions and disciplinary action case files. These files contain appeals from a response from the Iowa department of administrative services regarding an employee's grievance or appeal of a disciplinary action. A person or representative may file the documents contained in this type of case. These files contain information which pertains to the appeal. The records may include the appeal form and attachments, pleadings, briefs, notices, rulings, decisions, orders, exhibits, transcripts, docket sheets, general correspondence, attorneys' notes, settlement offers, memoranda, and research materials. Cases contain personal information of the representative and the employee. Further personal information may be included in testimony, exhibits, and other documents. Cases filed prior to January 1, 2015, are contained on the agency's network. Cases filed after January 1, 2015, are contained within the agency's electronic document management system. If the case went to hearing, the hearing may have been recorded by mechanical means, and a copy of the recording may be available. The files are maintained by the agency and are indexed by the case number. The files may contain materials which are confidential as attorney work product and contain settlement offers and mediators' documents. Some materials are confidential under other applicable provisions of law. Copies of documents or hearing recordings filed in these cases may be obtained through the agency or the agency's electronic document management system.

12.12(10) Public safety unit determination case files. These files contain information which pertains to whether a bargaining unit is a public safety unit. An employee organization or public employer may file the documents contained in this type of case. Such files contain documents concerning the agency's determination of that question. The records may include pleadings, notices, orders, exhibits, transcripts, docket sheets, general correspondence, attorneys' notes, memoranda, research materials, and information compiled under the direction of the agency. Cases contain personal information of the representatives and may contain personal information of employees. Further personal information may be included in testimony, exhibits, and other documents. Cases are contained within the agency's electronic document management system or suPERB. If the case went to hearing, the hearing may have been recorded by mechanical means, and a copy of the recording may be available. The files are maintained by the agency and are indexed by the case number. The files may contain materials which are confidential as attorney work product, settlement offers and mediators' notes. Some materials are confidential under other applicable provisions of law. Copies of documents or hearing recordings filed in these cases may be obtained through the agency or the agency's electronic document management system.

12.12(11) Other Iowa Code chapter 20 case files. These files contain information which pertains to objections which an employer or employee organization may make when impasse procedures are not completed prior to the applicable deadline for completion of impasse procedures, challenges which an employee organization or employer may make when the voter eligibility is challenged, and challenges which an employee organization may make postelection in retention and recertification elections. An employee organization or public employer may file the documents contained in this type of case. Further personal information may be included in testimony, exhibits, and other documents. Such files contain documents concerning the agency's determination of the question. The records may include pleadings,

notices, orders, exhibits, transcripts, docket sheets, general correspondence, attorneys' notes, memoranda, research materials, and information compiled under the direction of the agency. Cases contain personal information of the representatives and may contain personal information of employees. Cases are contained within the agency's electronic document management system or suPERB. If the case went to hearing, the hearing may have been recorded by mechanical means, and a copy of the recording may be available. The files are maintained by the agency and are indexed by the case number. The files may contain materials which are confidential as attorney work product, settlement offers and mediators' notes. Some materials are confidential under other applicable provisions of law. Copies of documents or hearing recordings filed in these cases may be obtained through the agency.

12.12(12) Grievance, fact-finding and interest arbitration decisions. The agency maintains decisions issued by neutrals. Grievance arbitration decisions prior to the year 2000 are maintained on the agency's database, and copies of a decision may be obtained through the agency. Grievance arbitration decisions after the year 2000 which the parties agreed could be made public can be obtained through the agency's searchable database system. All fact-finding and interest arbitration decisions can be obtained through the agency's searchable database system.

12.12(13) Collective bargaining agreements. The agency maintains collective bargaining agreements negotiated between the public employer and the certified employee organization. Collective bargaining agreements negotiated prior to the year 2000 are maintained on the agency's database, and copies of these collective bargaining agreements may be obtained through the agency. Collective bargaining agreements negotiated after the year 2000 can be obtained through the agency's searchable database system.

12.12(14) Personnel files. The agency maintains files containing information about agency employees and applicants for positions with the agency. The files contain payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information may be confidential under Iowa Code sections 22.7(11) and 22.7(18).

12.12(15) Litigation files. These files or records contain information regarding litigation or anticipated litigation which involves the agency. The records include pleadings, briefs, docket sheets, documents, general correspondence, attorneys' notes, memoranda, research materials, and investigation materials. Litigation files may be paper files and may be kept up to five years in paper format or replaced immediately in electronic format if possible. The files are indexed by the name of the opposing party or case number. The files contain materials which are confidential as attorney work product. Some materials are confidential under other applicable provisions of law. Persons who wish to obtain copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy.

[ARC 4457C, IAB 5/22/19, effective 6/26/19; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—12.13(17A,20,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 621—12.1(17A,20,22). The records listed may contain information about individuals. Unless otherwise designated, the authority for this agency to maintain the record is provided by Iowa Code chapter 20, the statutes governing the subject matter of the record, and the enabling statutes of the agency, where applicable. All records are stored electronically unless otherwise noted.

12.13(1) Citizen inquiry and response files. Individuals and representatives write or email this agency on a variety of legal issues with regard to Iowa Code chapter 20. The agency does not generally provide legal advice to individuals but may provide general information.

12.13(2) Internal agency records. These records include agendas, minutes and materials presented during meetings.

12.13(3) Administrative records. These records include documents concerning budgets, property inventory, purchasing, yearly reports, office policies for employees, time sheets, and printing and supply requisitions.

12.13(4) Rule-making records. Official documents executed during the promulgation of agency rules and public comments are available for public inspection.

[ARC 4457C, IAB 5/22/19, effective 6/26/19; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—12.14(17A,20,22) Data processing systems. None of the data processing systems used by the agency compare personally identifiable information in one record system with personally identifiable information in another record system.

[ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—12.15(17A,20,22) Applicability. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

These rules are intended to implement Iowa Code chapters 17A, 20, and 22.

[Filed emergency 9/19/88—published 10/5/88, effective 9/19/88]

[Filed 4/18/89, Notice 10/5/88—published 5/3/89, effective 6/7/89]

[Filed emergency 11/18/94—published 12/7/94, effective 11/21/94]

[Filed 1/11/95, Notice 12/7/94—published 2/1/95, effective 3/8/95]

[Filed 4/15/99, Notice 3/10/99—published 5/5/99, effective 7/1/99]

[Filed emergency 7/1/04—published 7/21/04, effective 7/30/04]

[Filed ARC 4457C (Notice ARC 4365C, IAB 3/27/19), IAB 5/22/19, effective 6/26/19]

[Filed ARC 7011C (Notice ARC 6912C, IAB 2/22/23), IAB 5/3/23, effective 6/7/23]

[Content rescinded by 2026 Iowa Acts, Senate File 2463, section 4—editorially removed in IAC Supplement 7/8/26, effective 7/1/26]

CHAPTER 13
MEDIATORS

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

621—13.1(20) Scope and authority. This chapter applies to all mediators listed on the agency's mediator list and to all persons applying for inclusion on the list.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—13.2(20) Definitions.

"Ad hoc mediator" means a person included on the list who enters into an independent contractor agreement with the agency to provide mediation to parties requesting impasse services pursuant to Iowa Code section 20.20.

"Advocate" means a person who represents employers, employee organizations, or individuals or entities in labor relations or employment relations matters, including but not limited to the subjects of union representation and recognition matters, negotiations, mediation, arbitration, unfair or prohibited labor practices, equal employment opportunity, and other areas generally recognized as constituting labor or employment relations. "Advocate" includes representatives of employers or employees in individual cases or controversies involving workers' compensation, occupational health or safety, minimum wage, or other labor standards matters. "Advocate" also includes persons directly or indirectly associated with an advocate in a business or professional relationship as, for example, partners or employees of a law firm.

"FMCS" means the Federal Mediation and Conciliation Service.

"Qualified-mediator list" or *"list"* means the agency-maintained list of mediators who have met the criteria set forth in this chapter.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—13.3(20) List and status of members.

13.3(1) *The list.* The agency shall maintain a list of mediators who meet the criteria for listing contained in rule 621—13.4(20) and who remain in good standing.

13.3(2) *Adherence to standards and requirements.* Persons included on the list shall comply with the agency's administrative rules pertaining to mediation. Mediators shall conform to the ethical standards and procedures set forth in the current Code of Professional Conduct for Labor Mediators, as approved and published by the Association of Labor Relations Agencies, and chapter 11 of the Iowa Court Rules. When in conflict, the Code of Professional Conduct for Labor Mediators shall take precedence over the Iowa Court Rules.

13.3(3) *Status of FMCS and ad hoc mediators.* Ad hoc mediators and mediators employed by FMCS are not employees of the state of Iowa.

13.3(4) *Rights of persons on the list.* Placement on the list shall be at the sole discretion of the board.

13.3(5) *Assignments.* The agency has sole discretion to make and modify mediation assignments.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—13.4(20) Mediator listing.

13.4(1) *Categories of mediators.* The list shall consist of three categories of mediators:

- a. The agency's professional staff;
- b. Mediators employed by FMCS; and
- c. Ad hoc mediators.

13.4(2) *Application procedures for ad hoc mediators.* Persons seeking to be included on the list must complete and submit an application to the agency. Applicants shall submit at least two professional references, preferably one reference from management and one reference from labor. The board will review the application under the criteria set forth in this rule and shall make a final decision as to whether an applicant may be placed on the list. Satisfactorily meeting all criteria does not entitle an applicant to inclusion on the list. Each applicant shall be notified in writing of the board's decision.

13.4(3) Knowledge and abilities. Applicants must establish requisite knowledge and abilities as follows:

- a. Good verbal and written communication skills;
- b. The ability and willingness to travel throughout Iowa and to work prolonged and unusual hours;
- c. Knowledge of Iowa Code chapter 20, the agency's administrative rules, and principles and practices of contracts, public finance, and labor relations; and
- d. The ability and willingness to conduct a mediation in a fair and impartial manner.

13.4(4) Experience. Applicants must demonstrate requisite experience in labor relations or mediation in one of the following ways:

- a. At least three years of collective bargaining experience in the public or private sector;
- b. At least three years of actual mediation experience;
- c. At least five years of other relevant experience in labor-related fields including but not limited to human resource management, industrial relations, and labor unionism;
- d. A law degree or a master's or equivalent degree in industrial or labor relations or alternative dispute resolution; or
- e. Experience that is a combination of that described in paragraphs "a" through "d" of this subrule.

13.4(5) Geographical location. Preference will be given to applicants residing in or near areas of the state where few other listed mediators reside.

13.4(6) Training. Prior to inclusion on the list, an applicant may complete the following training if the training is deemed necessary by the board:

- a. Formal training provided by the agency; and
- b. Mentorship in at least two disputes with an experienced, listed mediator. The board may require additional mentoring if deemed necessary.

13.4(7) Conflict of interest. Prior to inclusion on the list, all applicants must disclose potential conflicts of interest as described in subrule 13.6(1).

13.4(8) Exemption. Persons on the agency's professional staff and mediators employed by FMCS shall not be required to submit an application for listing and shall be deemed as meeting all criteria set forth in subrules 13.4(3) through 13.4(6) throughout the duration of their employment with the agency or FMCS.

13.4(9) Grandfather clause. Any person listed prior to November 5, 2014, shall be deemed as meeting all criteria set forth in subrules 13.4(3), 13.4(4) and 13.4(6).

[ARC 1642C, IAB 10/1/14, effective 11/5/14; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—13.5(20) Independent contractor agreement. An ad hoc mediator must enter into an independent contractor agreement with the agency prior to receiving mediation assignments. The independent contractor agreement between the ad hoc mediator and the agency shall establish the hourly rate, reimbursable fees and expenses, duration, and other terms and conditions.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—13.6(20) Conflict of interest.

13.6(1) Conflict of interest. The board shall determine whether a person has a conflict of interest which may require denial of an application or removal from the list or from individual assignments. A conflict of interest arises where:

- a. A mediator is or has been an employee or advocate for a party to the mediation within the prior two years; or
- b. A mediator's immediate family member, or any other person with whom the mediator has close, personal ties, is an interested party in the outcome of the mediation; or
- c. Any other matter that may create an appearance of bias, lack of impartiality, or interest in the proceedings to which the mediator may be or has been assigned.

13.6(2) Duty to disclose. A person applying for inclusion on the list or a person included on the list has a continuing duty to disclose to the board in writing any potential or actual conflicts of interest as described in subrule 13.6(1).

13.6(3) Disclosure. The board may require a mediator to disclose certain matters to the parties of a mediation prior to its commencement. If either party objects to proceeding to mediation with that mediator, the board may assign a different mediator.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—13.7(20) Confidentiality.

13.7(1) Exemption from open meetings law. In accordance with Iowa Code section 20.17(3), communications between the parties and the mediator during the course of a mediation shall be exempt from the provisions of Iowa Code chapter 21.

13.7(2) Mediator privilege. In accordance with Iowa Code section 20.31(2), a mediator shall not testify in judicial, administrative, arbitration, or grievance proceedings regarding any matters occurring in the course of a mediation, including any verbal or written communication or behavior, other than facts relating exclusively to the timing or scheduling of mediation. A mediator shall not produce or disclose any documents, including notes, memoranda, or other work product, relating to mediation, other than documents relating exclusively to the timing or scheduling of mediation.

13.7(3) Exception. Subrule 13.7(2) shall not apply in any of the following circumstances:

- a. The testimony, production, or disclosure is required by statute;
- b. The testimony, production, or disclosure provides evidence of an ongoing or future criminal activity; or
- c. The testimony, production, or disclosure provides evidence of child abuse as defined in Iowa Code section 232.68(2).

[ARC 1642C, IAB 10/1/14, effective 11/5/14; ARC 3803C, IAB 5/9/18, effective 6/13/18]

621—13.8(20) Complaints. Any affected person or party shall direct a complaint against a mediator who is on the list to the board. The board will consider the complaint and other relevant information and take such action it deems appropriate.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—13.9(20) Inactive status. A member of the list who continues to meet the criteria for inclusion on the list shall inform the agency if the member is unavailable for assignment on a temporary basis because of illness, vacation, schedule, or other reasons. That member will not receive assignments during the period in which the member is unavailable.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

These rules are intended to implement Iowa Code sections 20.1, 20.6 and 20.20.

[Filed ARC 1642C (Notice ARC 1570C, IAB 8/6/14), IAB 10/1/14, effective 11/5/14]

[Filed ARC 3803C (Notice ARC 3671C, IAB 3/14/18), IAB 5/9/18, effective 6/13/18]

[Filed ARC 7011C (Notice ARC 6912C, IAB 2/22/23), IAB 5/3/23, effective 6/7/23]

CHAPTER 14 ARBITRATORS

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

621—14.1(20) Scope. This chapter applies to all arbitrators listed on the agency's qualified-arbitrator roster and to all applicants for listing on the roster.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—14.2(20) Definitions.

"Advocate" means a person who represents employers, employee organizations, or individuals or entities in labor relations or employment relations matters, including but not limited to the subjects of union representation and recognition matters, negotiations, mediation, arbitration, unfair or prohibited labor practices, equal employment opportunity, and other areas generally recognized as constituting labor or employment relations. "Advocate" includes representatives of employers or employees in individual cases or controversies involving workers' compensation, occupational health or safety, minimum wage, or other labor standards matters. "Advocate" also includes persons directly or indirectly associated with an advocate in a business or professional relationship as, for example, partners or employees of a law firm.

"Arbitrator" means a person serving as a neutral decision-maker in interest arbitrations or grievance arbitrations.

"Grievance arbitration" means the proceedings on an alleged contract violation as provided in a collective bargaining agreement entered into pursuant to Iowa Code chapter 20.

"Grievance arbitrator" means a person serving as a neutral decision-maker in a grievance arbitration.

"Interest arbitration" means the binding arbitration contemplated by Iowa Code section 20.22 or by an impasse agreement entered into pursuant to Iowa Code section 20.19.

"Interest arbitrator" means a person serving as a neutral decision-maker in an interest arbitration.

"Qualified-arbitrator roster" or *"roster"* means the agency-maintained list of arbitrators who have met the criteria set forth in this chapter.

[ARC 1642C, IAB 10/1/14, effective 11/5/14; ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—14.3(20) Roster and status of members.

14.3(1) *The roster.* The agency shall maintain a roster of arbitrators who meet the criteria for listing contained in rule 621—14.5(20) and who remain in good standing.

14.3(2) *Adherence to standards and requirements.* Persons listed on the roster shall comply with the agency's administrative rules pertaining to arbitrators. Arbitrators shall conform to the ethical standards and procedures set forth in the current Code of Professional Responsibility for Arbitrators of Labor Management Disputes, as approved and published by the National Academy of Arbitrators, Federal Mediation and Conciliation Service, and the American Arbitration Association.

14.3(3) *Status of arbitrators.* Persons who are listed on the roster are not employees of the state of Iowa. A selected arbitrator's contractual relationship is solely with the parties to the dispute.

14.3(4) *Roster listing fee.* An annual listing fee of \$150 for each roster member is established to maintain the roster. Roster members shall remit payment to the agency by November 1 each year. This fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—14.4(20) Fees of arbitrators. Qualified arbitrators selected from the roster may be compensated by a sum not to exceed \$1,200 per day of service, plus their necessary expenses incurred.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—14.5(20) Arbitrator roster.

14.5(1) *Categories of arbitrators.* The roster shall consist of two categories of arbitrators:

- a. Interest arbitrators; and
- b. Grievance arbitrators.

Persons may be listed on the roster in each category in which they meet the criteria.

14.5(2) *Initial application procedures.* Persons seeking to be listed on the roster in one or more categories must complete and submit an application to the board. Applicants shall submit at least one reference from management, one reference from labor, and applicable writing samples. The board will review the application under the criteria, as set forth in subrules 14.5(3), 14.5(4), 14.5(5), and 14.5(6), and shall make a final decision concerning whether an applicant will be listed on the roster and under which category or categories the applicant qualifies. Each applicant shall be notified in writing of the board's decision.

14.5(3) *Knowledge and abilities.* Applicants must establish requisite knowledge and abilities as follows:

a. For listing on the roster as an interest arbitrator:

- (1) Good verbal and written communication skills;
- (2) The ability and willingness to travel throughout Iowa and to work prolonged and unusual hours;
- (3) Knowledge of Iowa Code chapter 20, the agency's rules, and principles and practices of contracts, public finance, and labor relations; and

(4) The ability to conduct evidentiary hearings in a fair and impartial manner, develop an accurate record, and prepare and issue clear, reasoned and timely awards. For purposes of this subparagraph, "timely" means within 15 days after the interest arbitration hearing pursuant to Iowa Code section 20.22(10)"a" or in a time frame established by an impasse agreement entered into pursuant to Iowa Code section 20.19.

b. For listing on the roster as a grievance arbitrator:

- (1) Good verbal and written communication skills;
- (2) The ability and willingness to travel throughout Iowa and to work prolonged and unusual hours;
- (3) Knowledge of arbitral principles and practices, contracts, and labor relations; and
- (4) The ability to conduct evidentiary hearings in a fair and impartial manner, develop an accurate record, and prepare and issue clear, reasoned and timely awards. For purposes of this subparagraph, "timely" means within the time frame established by the parties' collective bargaining agreement entered into pursuant to Iowa Code chapter 20.

14.5(4) *Experience.* Applicants must demonstrate requisite experience in labor relations or arbitration in the category in which the applicant seeks listing on the roster in one of the following ways:

a. For listing on the roster as an interest arbitrator:

- (1) Issuance of at least four fact-finding or interest arbitration decisions or a combination thereof;
- (2) At least three years' experience as a mediator in collective bargaining interest disputes, with training and experience in conducting hearings and issuing reasoned awards; or
- (3) At least five years' experience in labor relations or labor law, with training and experience in conducting hearings and issuing reasoned awards.

b. For listing on the roster as a grievance arbitrator:

- (1) Issuance of at least four grievance awards; or
- (2) At least five years' experience in labor relations or labor law, with training and experience in conducting hearings and issuing reasoned awards.

14.5(5) *Conflict of interest.* Prior to inclusion on the roster, all applicants must disclose potential conflicts of interest as described in subrule 14.8(1).

14.5(6) *Training.* Prior to inclusion on the roster as an interest arbitrator, applicants may complete formal training provided by the agency if the training is deemed necessary by the board.

14.5(7) *Exemption.* Applicants who qualify for and complete the agency's interest arbitrator mentorship program, as outlined in rule 621—14.6(20), shall be exempt from the criteria set forth in subparagraph 14.5(4) "a"(1) and subrule 14.5(6).

14.5(8) *Duration of listing.* Listing on the roster shall be for a term of three years, renewable by payment of a fee of \$100.

14.5(9) *Renewal application.*

a. The board shall notify a roster member not less than 120 days before the expiration of the member's three-year term of the procedures necessary to continue inclusion on the roster.

b. A roster member desiring to renew the member's listing must submit a written application to the board not less than 60 days before the expiration of the member's three-year term.

c. When reviewing a renewal application, the board shall consider the following criteria, plus any other relevant information, in determining whether to renew the person's listing:

(1) Demonstration of the requisite knowledge and abilities as listed in subrule 14.5(3);

(2) Acceptability, which may be based on the agency's records that show the number of times the arbitrator's name has been proposed to the parties and the number of times the arbitrator has been selected. Such cases will be reviewed for extenuating circumstances, such as the arbitrator's length of time on the roster or prior history;

(3) Timeliness of decisions;

(4) Feedback from the parties; and

(5) Attendance at agency-sponsored events, including conferences and trainings.

d. Within 60 days of receipt of the completed application, the board shall issue and serve in accordance with 621—subrule 2.15(2) a written decision granting or denying the renewal application.

(1) If renewal is granted, the roster member shall remit payment of the annual listing fee in accordance with subrule 14.3(4).

(2) If renewal is denied, the renewal applicant may request reconsideration of the denial within 14 days of issuance of the denial. The board shall hold a hearing conducted in accordance with 621—Chapter 2 within 60 days of the request for reconsideration and shall issue its final ruling within 30 days of the hearing. Absent a timely request for reconsideration, the board's denial of the renewal application becomes final, and the arbitrator shall be removed from the roster.

14.5(10) Grandfather clause. Any arbitrator listed on the roster prior to November 5, 2014, shall be deemed to meet all criteria set forth in subrules 14.5(3), 14.5(4), and 14.5(6) for up to three years following November 5, 2014. For purposes of renewal, the agency shall divide arbitrators listed on the roster on November 5, 2014, into three groups with staggered renewal dates and will notify the members of each group when their renewal applications are due.

[ARC 1642C, IAB 10/1/14, effective 11/5/14; ARC 4457C, IAB 5/22/19, effective 6/26/19; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—14.6(20) Interest arbitrator mentorship program.

14.6(1) Goal. It is a goal of the board to increase the number of Iowa residents qualified to be on the roster. Such increase should provide constituents additional options for hiring arbitrators whose reimbursable expenses, such as for mileage and accommodations, are lower and who are more familiar with situations facing the parties. The board may suspend the interest arbitrator mentorship program at any time.

14.6(2) Application procedures. Persons seeking to participate in the program must complete and submit an application on a form prescribed by the board. The board will review the application and make a final decision whether an applicant qualifies for the program in accordance with subrule 14.6(3). Each applicant shall be notified in writing of the board's decision.

14.6(3) Qualifications. To be eligible to participate in the program, an applicant must meet the following qualifications:

a. Be a resident of the state of Iowa at the time of application and throughout the duration of the mentorship program and maintain the residency for the first year of listing;

b. Have at least five years of collective bargaining experience in the public or private sector as an advocate, mediator, or combination of both;

c. Possess good verbal and written communication skills;

d. Have the ability and willingness to travel throughout Iowa and to work prolonged and unusual hours; and

e. Not have a conflict of interest as described in subrule 14.8(1).

14.6(4) The program.

a. The program shall consist of the following steps:

(1) Formal training by the agency regarding Iowa Code chapter 20, the agency's administrative rules, and how to conduct hearings and write awards;

(2) Shadowing an experienced arbitrator listed on the roster in at least two interest arbitrations; and
(3) Submission of at least two mock interest arbitration awards that comply with statutory and regulatory requirements. The board may require additional mock awards if deemed necessary.

b. Successful completion of the program will result in the participant's inclusion on the roster as an interest arbitrator. Participants must satisfy the criteria for grievance arbitrators outlined in subrules 14.5(3) and 14.5(4) prior to inclusion on the roster under that category.

[ARC 1642C, IAB 10/1/14, effective 11/5/14; ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—14.7(20) Biography. Each roster member shall maintain a biography in a form prescribed by the board. The roster member is responsible for ensuring that the biography is accurate and current. The agency bears no responsibility for inaccurate, incomplete, or outdated information in biographies. The member's biography shall contain the following:

1. Name, address, telephone number, and email address;
2. Current and past employment, including the member's representative client base if not readily identifiable;
3. Education history;
4. Per diem rate and other applicable charges or fees;
5. Relevant experience, including but not limited to listing on other arbitrator rosters or memberships/associations; and
6. Potential or actual conflicts of interest as described in subrule 14.8(1).

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—14.8(20) Conflict of interest.

14.8(1) Conflict of interest. The board shall determine whether a person has a conflict of interest which may require denial of an initial or renewal application or removal from the roster or from individual selections. A conflict of interest arises where:

- a. An arbitrator is or has been an employee or advocate for a party to the arbitration within the prior two years;
- b. An arbitrator's immediate family member, or any other person with whom the arbitrator has close, personal ties, is an interested party in the outcome of the arbitration; or
- c. Any other matter that may create an appearance of bias, lack of impartiality, or interest in the proceedings to which the arbitrator may be or has been selected.

14.8(2) Duty to disclose. A person applying for inclusion on the roster or a person listed on the roster has a continuing duty to disclose to the board in writing any potential or actual conflicts of interest as described in subrule 14.8(1).

14.8(3) Disclosure. The board may require an arbitrator to disclose certain matters to the parties of an arbitration prior to its commencement. If either party objects to proceeding to arbitration with that arbitrator, the board may require the parties to make an alternate selection.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—14.9(20) Procedures for discipline and removal.

14.9(1) Grounds. Probation, suspension, or removal from the roster may be based upon one or a combination of any of the following, including but not limited to:

- a. Failure to comply with statutory provisions, the agency's administrative rules, and agency guidelines and policies;
- b. Delinquency in submitting awards;
- c. Existence of a conflict of interest as described in subrule 14.8(1) that requires exclusion from the roster;
- d. Failure to disclose to the board or the parties any conflict of interest as described in subrule 14.8(1);
- e. Failure to demonstrate the requisite knowledge and abilities listed in subrule 14.5(3);
- f. Any other reason for which the board deems discipline or removal to be in the best interest of the agency, its constituents, or the public at large.

14.9(2) *Automatic removal.* Any roster member who fails to pay the annual listing fee pursuant to subrule 14.3(4) shall be removed from the roster, absent good cause shown for why removal is inappropriate. Any member who fails to submit a renewal application pursuant to paragraph 14.5(9) “b” shall be removed from the roster 30 days after the expiration of the member’s term, absent good cause shown for why removal is inappropriate.

14.9(3) *Filing of a complaint.*

a. Any affected person or party may file with the board a complaint against an arbitrator listed on the roster. The board may also file a complaint pursuant to this subrule. Such complaint shall be in writing and shall contain:

- (1) The name, address, telephone number, and email address of the complaining party;
- (2) The dispute(s) in which the complaining party has interacted with the arbitrator;
- (3) The specific allegations on which the complaint is based;
- (4) The requested discipline;
- (5) The signature of the complaining party; and
- (6) The date on which the complaint was prepared.

b. The board shall serve on the arbitrator written notice of the complaint within 14 days of receipt of the complaint and in accordance with rule 621—2.15(20).

14.9(4) *Preliminary investigation.* Upon receipt of a complaint from an affected person or party, the board shall conduct a preliminary investigation into the allegations. In conducting the investigation, the board may require the production of evidence, including affidavits and documents. If the investigation reveals the complaint has no basis in fact or if the complaint is informally resolved with the approval of the board, the complaint shall be dismissed and the parties notified in accordance with rule 621—2.15(20).

14.9(5) *Procedures.* If the complaint is not dismissed following the preliminary investigation, the board shall schedule the complaint for hearing and notify the parties in accordance with rule 621—2.2(20). The hearing shall be held within 60 days of the completion of the preliminary investigation or the filing of a board-initiated complaint. The hearing and all subsequent proceedings and filings shall be in accordance with 621—Chapter 2.

14.9(6) *Timely resolution of complaints.* Complaints filed with the board shall be resolved within 180 days unless good cause is shown for an extension. The board will notify the parties prior to taking action to extend this time limitation upon its own motion.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

621—14.10(20) *Inactive status.* A roster member who continues to meet the criteria for listing on the roster shall inform the agency if the member is unavailable for selection on a temporary basis because of illness, vacation, schedule, or other reasons. That member’s name will not be included on a list of arbitrators sent to parties during the period in which the member is unavailable.

[ARC 1642C, IAB 10/1/14, effective 11/5/14]

These rules are intended to implement Iowa Code sections 20.1, 20.6, and 20.22.

[Filed ARC 1642C (Notice ARC 1570C, IAB 8/6/14), IAB 10/1/14, effective 11/5/14]

[Filed ARC 4457C (Notice ARC 4365C, IAB 3/27/19), IAB 5/22/19, effective 6/26/19]

[Filed ARC 7011C (Notice ARC 6912C, IAB 2/22/23), IAB 5/3/23, effective 6/7/23]

CHAPTER 15
RETENTION AND RECERTIFICATION ELECTIONS

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/7/28

621—15.1(20) General procedures. When an employer and certified employee organization are parties to a collective bargaining agreement, the agency shall conduct an election, prior to the expiration of a collective bargaining agreement between an employer and a certified employee organization, to determine if the employees in a represented bargaining unit wish to retain and recertify the unit's certified representative. The agency shall determine the date of the election or election period and the place, method, and other procedural aspects of conducting a retention and recertification election held pursuant to Iowa Code chapter 20. Elections shall be conducted under the direction and supervision of the agency or its election agent and shall be by secret ballot.

Official notices relevant to the election will be delivered through secure upload PERB (suPERB). Each election will be assigned a "BU" number in suPERB. A party shall file electronically all documents in the party's respective BU case file in suPERB unless the rules specify otherwise. Notification of events requiring attention of parties shall be produced by suPERB. The election fee shall be calculated and delivered to employee representatives through suPERB.

Employers and certified employee organizations shall have a representative or agent for service listed in suPERB and the electronic document management system (EDMS). Employers and certified employee organizations have a continuing duty to update the representative or agent for service in suPERB and EDMS. Employees in a bargaining unit designated as a transit unit will not be subject to retention and recertification elections.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.2(20) Election calendar.

15.2(1) Fall election.

a. The fall election shall be conducted by electronic voting provided for by a vendor selected by the agency.

b. The fall election shall commence on the second Tuesday in October at 8 a.m. and shall apply to all collective bargaining agreements which expire the following year on June 30 or on a date between 270 and 365 days after the end of the election.

c. Voting in the fall election shall cease at 9 a.m. on the fourth Tuesday in October following the commencement of the election.

d. The fall election calendar shall be as follows (if any event designated by this subrule occurs on a Saturday or Sunday or any day on which the agency's office is closed due to a state holiday, the time for the event shall be extended to include the next business day):

Event Date	Event
August 1	Employers may voluntarily begin to upload voter lists in suPERB.
August 15	The agency files notices of intent to conduct a retention/recertification election.
August 18	Any contract extensions must be received by the agency. If the parties reach an agreement on an extension and have notified the agency in writing by this date, an election will not be conducted. Additionally, if either party chooses to file an objection to the notice of intent to conduct a recertification/retention election, such objections must be filed in EDMS.
August 25	Deadline for an employer to upload a voter list in suPERB.
August 26	If an employer fails to upload the voter list, the agency will file a notice of show cause hearing to be held.
August 28	Employer show cause hearings, if necessary, must be completed.
September 1	Deadline for employee organizations to approve the employer's voter list in suPERB.

September 2	If an employee organization fails to approve the voter list, the agency will file a notice of show cause hearing to be held.
September 4	Employee organizations' show cause hearings, if necessary, must be completed.
September 9	The agency shall notify employee organizations of the applicable fees for the retention/recertification election.
September 19	Deadline for employee organizations to submit the retention/recertification fee. This is also the last day for the parties to agree to changes to the voting list.
September 20	The agency shall issue the order directing the retention/recertification election.
Second Tuesday in October	Commencement of election period beginning at 8 a.m.
Fourth Tuesday in October	Cessation of election period at 9 a.m.
Ten days following the fourth Tuesday in October	Deadline for e-filing of objections.

15.2(2) Spring election.

- a. The spring election shall be carried out by mail ballot.
- b. The spring election shall commence with the mailing of ballots to eligible voters no later than the first Tuesday in March and shall apply to all collective bargaining agreements that expire the following year on a date between 270 and 365 days after the end of the spring election.
- c. The spring election will end with the tallying of the ballots on the fourth Friday in March at 9 a.m. All ballots must be received by the agency by this time, or they will not be counted.
- d. The spring election calendar shall be as follows (if any event designated by this subrule occurs on a Saturday or Sunday or any day on which the agency's office is closed due to a state holiday, the time for the event shall be extended to include the next business day):

Event Date	Event
January 1	Employers may voluntarily begin to upload voter lists in suPERB.
January 15	The agency files notices of intent to conduct a retention/recertification election.
January 18	Any contract extensions must be received by the agency. If the parties reach an agreement on an extension and have notified the agency in writing by this date, an election will not be conducted. Additionally, if either party chooses to file an objection to the notice of intent to conduct a recertification/retention election, such objections must be filed in EDMS.
January 25	Deadline for an employer to upload a voter list in suPERB.
January 26	If an employer fails to upload the voter list, the agency will file a notice of show cause hearing to be held.
January 28	Employer show cause hearings, if necessary, must be completed.
February 1	Deadline for employee organizations to approve the employer's voter list in suPERB.
February 2	If an employee organization fails to approve the voter list, the agency will file a notice of show cause hearing to be held.
February 4	Employee organizations' show cause hearings, if necessary, must be completed.
February 9	The agency shall notify employee organizations of the applicable fees for the retention/recertification election.
February 19	Deadline for employee organizations to submit the retention/recertification fee. This is also the last day for the parties to agree to changes to the voting list.
February 20	The agency shall issue the order directing the retention/recertification election.
First Tuesday in March	Commencement of election period begins with the mailing of ballots.
Fourth Friday in March	Cessation of election period at 9 a.m. All ballots must be received to the agency.

Ten days following the fourth Deadline for e-filing of objections.
Friday in March

15.2(3) *Date of the election.* For the purposes of this chapter, the date of an election shall be the date on which the ballots were tallied.

The board will determine which bargaining units are subject to retention and recertification election in the immediate state fiscal year based on the contract uploaded to suPERB. Changes or extensions to contracts uploaded to suPERB after August 18 for fall elections and January 18 for spring elections will not alter the date of the election. If a collective bargaining agreement indicates the agreement is for a term of one year but does not clearly specify the effective commencement and termination dates, the agency will presume the collective bargaining agreement is for a term of one year commencing July 1 and ending June 30 unless the agreement clearly states an alternate term and effective dates.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.3(20) General election procedures.

15.3(1) *Notice of intent to conduct an election.* PERB will issue a notice of intent to conduct an election on August 15 for fall elections and January 15 for spring elections to both the employer and employee representatives designated in suPERB.

15.3(2) *Initial filing of approved list by employer.*

a. When the agency files a notice of intent to conduct a retention and recertification election, the employer shall, no later than August 25 for fall elections and no later than January 25 for spring elections, submit to the agency through suPERB an alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; and job classifications of the employees in the bargaining unit. When a telephonic/web-based election is ordered, the list of eligible voters shall include an alphabetical list of the names; addresses; email addresses, if known; telephone numbers, if known; job classifications of the employees; each employee's date of birth; the last four digits of each employee's social security number; and any other information required by the agency.

b. The employer shall email the certified employee organization's representatives that it submitted the list in suPERB. The suPERB system shall notify the parties that the employer filed the list.

c. For each election, the employer is obligated to file a new list. If the employer uploaded a current list of employees and their relevant information in the designated bargaining unit satisfying this subrule prior to August 1, the employer will approve the previously uploaded list in suPERB. For spring elections, this date will be January 1. The employer may upload a list prior to the filing by the agency of the notice of intent to conduct an election. The employer may do so any time after August 1 for fall elections and any time after January 1 for spring elections. Lists uploaded prior to the filing of the notice of intent to conduct an election shall be used for the upcoming election.

15.3(3) *Failure to upload an employee list.*

a. If an employer fails to file and approve the voter list by the deadlines established in subrules 15.2(1) and 15.2(2), the agency will order an in-person show cause hearing. The agency may provide reasonable accommodation to extend the filing period up to three days after the hearing in cases of demonstrated inability to create and file a list beyond the control of the employer.

b. Providing the employer an extension will automatically provide the employee organization an extension of a commensurate number of days to approve the list and pay the election fee.

c. The agency may take official notice of a failure to comply with Iowa Code chapter 20.

d. Failure of an employer to file a list will result in automatic recertification of the bargaining unit.

15.3(4) *Employer organization approval of the list.*

a. An employee organization shall have the periods established in subrules 15.2(1) and 15.2(2) to approve an eligible voter list. Eligible voters are those employees who were employed and included in the bargaining unit on the date of the deadline for the employer to submit the list as established in subrules 15.2(1) and 15.2(2). There will be no additions to the list after August 31 and February 1.

b. An employee organization shall utilize suPERB to suggest modifications to the list. The employer shall promptly review changes and make appropriate changes to the list when in agreement. The employer shall securely file any mutually agreed upon amended list in suPERB prior to the close of the list.

Intentional or unreasonable obstruction by either party of list amendment shall be grounds for election objection.

c. If an employer of a respective bargaining unit fails to file a list and the board grants an extension, the employee organization shall be granted the same extensions for approval of eligible voters and payment of the election fee.

d. If an employee organization fails to approve a voter list by the deadlines established in subrules 15.2(1) and 15.2(2), the agency will order a show cause hearing. The agency may provide reasonable accommodation to extend the upload period up to three days after the hearing in cases of demonstrated inability to suggest changes and approve an eligible voter list.

e. If the employee organization fails to approve a list by the deadlines established in subrules 15.2(1) and 15.2(2), the agency will use the list currently uploaded to suPERB by the employer for the current election cycle.

15.3(5) *Employer's responsibility.*

a. It is the employer's responsibility to maintain accuracy of the list. It is the employer's responsibility to add or remove any employees who become employed or are no longer employed by the employer up until the list is final.

b. For any employees on the final list who become unemployed prior to the close of the election and after the deadline for changes to the list, the employer shall notify the agency and the employee organization. If, after the tally of the ballot, the removal of the voter would be outcome determinative, the agency will re-tally the ballots as if the employee who is no longer employed was never on the list.

c. If the employer fails to notify the agency and the employee organization that an employee is no longer employed with the employer, such failure shall constitute grounds for an objection.

15.3(6) *Final voter list.* The final voter list will be the contents of the list filed in suPERB as of the dates established in subrules 15.2(1) and 15.2(2). No additions or subtractions will occur after those dates.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.4(20) Election fee.

15.4(1) *Computation of election fee.*

a. *Fall election fee.* The fee for fall elections shall be the greater of \$2 per voter or \$20 per bargaining unit. Employee organizations will be notified by suPERB on September 9 of the required fee and will have until September 19 to pay the election fee in accordance with subrules 15.2(1) and 15.4(5).

b. *Spring election fee.* The fee for spring elections shall be the greater of \$3 per voter or \$50 per bargaining unit. Employee organizations will be notified by suPERB on February 9 of the required fee and will have until February 19 to pay the election fee in accordance with subrules 15.2(2) and 15.4(5).

15.4(2) *Employee organization responsibility for the fee.*

a. The employee organization is responsible for and shall prepay the election fee in accordance with this chapter. PERB will send notice to employee organizations through suPERB on the dates provided for in subrules 15.2(1) and 15.2(2) of the amount due for each specific bargaining unit based on the number of eligible voters on the final list in a unit times the fee determined in subrule 15.4(1).

b. The number of voters on the eligible voter list at the end of the period for the employee organization to approve the voter list as provided for in subrules 15.2(1) and 15.2(2) shall be the number of voters used to calculate the fee for the election.

15.4(3) *Failure to pay election fee.* Failure to pay the election fee by the deadline shall result in an automatic revocation. If the election fee is not paid by the deadline, the agency shall issue an order decertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit in accordance with subrule 15.6(3).

15.4(4) *Election cost shortfall.* If the amount submitted in aggregate for all elections occurring in the current year does not exceed the amount due for services provided by a designated election vendor, PERB may pay the difference and assess the amount to the election in the following year.

15.4(5) *Payment of election fee.* The employee organization shall pay the election fee by check payable to the agency, and the fee is deemed paid upon receipt by the agency or, if submitted by mail, on the date of the U.S. Postal Service postmark affixed to the envelope in which the payment was made.

15.4(6) Refunds. The agency will not refund the election fee in the event the election is paid and the agency has performed duties to conduct the election but the election does not occur.

15.4(7) Extension requests to pay election fee. At any time prior to the date upon which the election fee is due, the employee organization may request an extension of time to pay the election fee. The agency shall grant the extension of time to pay the election fee for good cause.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.5(20) Election notice and electioneering. Following the public employer's submission of the list of eligible voters as provided in rule 621—15.3(20) and the agency's receipt of the applicable election fee from the certified employee organization, the agency will file an order directing a retention and recertification election in suPERB. Notice shall be provided to the employer representative and employee representative. The employer shall promptly distribute, electronically or by hard copy, the notice to the affected employees. The employer shall also promptly post the notice in the manner and locations customarily used for the posting of information to employees. Such notice shall contain a sample ballot or script and shall set forth the dates of the election period; the time, place, method, and purpose of the election; and such additional information as the agency may deem appropriate.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.6(20) Tallying and certification of results.

15.6(1) Ballots. Ballots shall contain the question, "Do you want [name of certified employee organization] to be retained and recertified and continue to be your exclusive bargaining representative?" followed by the choices "Yes" or "No."

15.6(2) Recertifying employee organization. Upon completion of a valid retention and recertification election in which an employee organization received the votes of a majority of employees in the bargaining unit, the agency shall file an order recertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit. This notice shall be filed in suPERB and be available to both the employer and employee representative.

15.6(3) Decertifying employee organization. Upon completion of a valid retention and recertification election in which a majority of the public employees in the bargaining unit did not vote to retain and recertify the representative, the agency, after the period for filing objections has lapsed, shall immediately file an order decertifying the employee organization as the exclusive bargaining representative of the employees in the bargaining unit. The public employees shall not be represented by the employee organization except when pursuant to the filing of a subsequent petition for certification of an employee organization as provided in Iowa Code section 20.14 and an election conducted pursuant to such petition.

15.6(4) Inoperable voting system. The board may extend the period of the election due to inoperable voting systems.

15.6(5) Alternate voting method. When a voter promptly informs the agency of the voter's inability to cast a ballot using the designated methods of voting, the agency shall assist the voter in using an alternate method to cast a secret ballot.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.7(20) Objections.

15.7(1) Objection and notice regarding notice of intent to conduct an election.

a. The certified employee organization or public employer may file an objection asserting that the election should not be conducted for reasons set forth in the objection. The objection shall be in writing and electronically filed in EDMS no later than seven days following the date of the notice of intent to conduct an election. The agency may conduct a preliminary investigation of the objection and determine if the objection has merit. The agency may informally resolve objections and will dismiss objections without merit. The agency will schedule hearings for all other objections. Hearings on objections shall be conducted pursuant to 621—Chapter 2. The objecting party shall present its evidence first.

b. If the agency fails to file a notice of intent to conduct an election, the public employer or certified employee organization may file with the agency in suPERB a notice asserting the election should be conducted for reasons set forth in the notice. The notice shall be electronically filed no later than seven

days following the date the notice of intent to conduct an election should have been filed pursuant to the retention and recertification election schedule as set forth by the agency. The parties shall submit to the agency all relevant information requested. The agency shall conduct an investigation to determine whether the election is required by statute and rule.

15.7(2) Voter eligibility challenges.

a. General. A party may challenge, for good cause, the eligibility of any voter. The agency shall attempt to resolve the challenge. Whenever challenged ballots are unresolved and determinative of the outcome of an election, a hearing to determine the eligibility of the challenged voter(s) shall be scheduled and conducted. After the conclusion of the hearing, the board may, if necessary, determine the appropriate remedy, which may include ordering a new election, and the cost of the new election may be taxed to the nonprevailing party.

b. Methods and timing of voter eligibility challenges. A party may challenge the eligibility of a voter by electronically filing a completed voter eligibility form in suPERB and in accordance with the following:

(1) In-person elections. A party shall challenge a voter's eligibility prior to the time the voter deposits the voter's ballot in the ballot box. In the event of a challenge, the challenged voter may mark the ballot in secret and the election agent shall segregate the ballot by causing it to be placed in a challenged-ballot envelope with appropriate markings and depositing it in the ballot box.

(2) Mail-ballot elections. A party shall challenge a voter's eligibility prior to the time the outer envelope containing the voter's secret envelope and ballot is opened. In the event of a challenge, both the secret envelope and the outer envelope shall remain sealed until the challenge is resolved.

(3) Telephonic/web-based elections. A party shall challenge a voter's eligibility at least seven days prior to the commencement of the election period for telephonic/web-based elections.

c. Postelection challenges. A certified employee organization may make postelection challenges to the total number of bargaining unit employees for their respective retention and recertification elections. The certified employee organization may file a postelection challenge in EDMS to the number of bargaining unit employees if an eligible voter has left employment and is no longer in the bargaining unit prior to the close of the election or election period. The employee organization shall file in EDMS this postelection challenge within ten days of the filing of the tally of ballots. The agency shall attempt to resolve the dispute. Whenever postelection challenges are unresolved and determinative of the outcome of an election, a hearing to determine whether an eligible voter left employment and was no longer in the bargaining unit prior to the close of the election or election period shall be scheduled and conducted. The board may make appropriate adjustments to the tally or order a new election based on the board's findings and conclusions.

d. Objections to an election. 621—subrule 5.4(2) contains information about objections to an election.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.8(20) Spring elections. Spring elections will be conducted with mail-ballot election procedures described in 621—subrule 5.3(2). The ballots will be mailed by the agency in accordance with subrule 15.2(2).

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.9(20) Elections not 270 days to 365 days after fall or spring election. If the date of expiration of a collective bargaining agreement requires an election not 270 days to 365 days after the fall or spring election, suPERB will immediately alert the agency, the employer and the employee representatives. In this event, PERB will within 14 days establish a future date of election to be held beginning on a Monday of the first full week in an appropriate month that allows for compliance with Iowa Code section 20.15(2) "a." All applicable dates will be established upon the selection of the election time period and will follow the same general procedures and timelines described in this chapter.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—15.10(20) Transit units. Units recognized as transit units under Iowa Code section 20.32 and designated as such in suPERB pursuant to 621—subrule 6.6(3) will not be served a notice of intent to

conduct an election. If a transit unit does receive a notice in error, the unit may immediately petition the board to be removed from the election. The agency may informally determine the unit's transit status and remove the unit from the recertification election. Once a transit determination has been made, the unit shall be considered transit by default unless designated otherwise.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

These rules are intended to implement Iowa Code chapter 20.

[Filed ARC 4458C (Notice ARC 4366C, IAB 3/27/19), IAB 5/22/19, effective 6/26/19]

[Filed ARC 5631C (Notice ARC 5534C, IAB 3/24/21), IAB 5/19/21, effective 6/23/21]

[Filed Emergency After Notice ARC 6520C (Notice ARC 6413C, IAB 7/13/22), IAB 9/21/22,
effective 8/22/22]

[Filed ARC 7011C (Notice ARC 6912C, IAB 2/22/23), IAB 5/3/23, effective 6/7/23]

CHAPTER 16
ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

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

621—16.1(20) Effective date and scope. This chapter governs the filing of documents in all proceedings before the agency, or those proceedings converted to electronic proceedings upon the board's order. To the extent the rules in this chapter are inconsistent with any other administrative rule of the board, the rules in this chapter shall govern.

[ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 4457C, IAB 5/22/19, effective 6/26/19; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—16.2(20) Definitions.

“Agency record” means for all cases the electronic files maintained in EDMS, filings the agency maintains in paper form when permitted by these rules, and exhibits and other materials filed with or delivered to and maintained by the agency.

“Confidential” means agency files, documents, or information excluded from public access by federal or state law or administrative rule, court rule, court order, or case law.

“EDMS” means the electronic document management system, the agency's electronic filing and case management system, generally used for the collection and storage of documents related to cases likely to proceed to hearing or contested cases.

“Electronic filing” means the electronic transmission of a document to the electronic document management system together with the production and transmission of a notice of electronic filing.

“Electronic record” means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

“Electronic service” means the electronic transmission of a link where the registered users who are entitled to receive notice of the filing may view and download filed documents.

“Nonelectronic filing” means a process by which a paper document or other nonelectronic item is filed with the agency.

“Notice of electronic filing” means a document generated by the electronic document management system when a document is electronically filed.

“PDF” means an electronic document filed in a portable document format which is readable by the free Adobe® Acrobat® Reader.

“Protected information” means personal information, the nature of which warrants protection from unlimited public access, including:

1. Social security numbers.
2. Financial account numbers.
3. Dates of birth.
4. Names of minor children.
5. Individual taxpayer identification numbers.
6. Personal identification numbers.
7. Other unique identifying numbers.
8. Confidential information.

“Public” refers to agency files, documents, or information that is not confidential or protected.

“Public access terminal” means a computer located at the agency's office where the public may view, print, and electronically file documents.

“Registered user” means an individual who has registered for an e-filing account through the agency's EDMS. A registered user can electronically file documents and electronically view and download files through the use of a username and password. In cases in which the registered user has entered an appearance or filed an answer, the registered user will electronically serve and receive notice of electronic filing in cases in which the registered user has appeared.

“Remote access” means a registered user's ability to electronically search, view, copy, or download electronic documents in an electronic record without the need to physically visit the agency's office.

“Signature” means the following:

1. For a registered user electronically filing a document in EDMS, “signature” means the registered user’s username and password accompanied by one of the following:

- “Digitized signature” means an embeddable image of a person’s handwritten signature;
- “Electronic signature” means an electronic symbol (“/s/” or “/registered user’s name/”) executed or adopted by a person with the intent to sign; or
- “Nonelectronic signature” means a handwritten signature applied to an original document that is then scanned and electronically filed.

2. For a party signing a document that another registered user will electronically file, “signature” means the signatory’s name affixed to the document as a digitized or nonelectronic signature.

“SuPERB” means a web interface database used by the board for the secure upload of various documents generally related to elections, the internal conduct of employee organizations, contracts, and the dissemination of notices related to elections.

[ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 4457C, IAB 5/22/19, effective 6/26/19; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—16.3(20) Electronic document management system (EDMS) registration, username, and password.

16.3(1) Registration.

a. *Registration required.* Every individual filing documents or viewing or downloading filed documents must register as a registered user of the electronic document management system.

b. *How to register.* To register, the individual must complete the registration process located at perb.iowa.gov/efiling and obtain a username and password for the electronic document management system.

c. *Registration complete.* When the registration process is completed, the registered user will be assigned a username and password and the registered user may utilize the electronic document management system.

d. *Changing passwords.* Once registered, the user may change the user’s password. If the registered user believes the security of an existing password has been compromised, the registered user must change the password immediately. The agency may require password changes periodically.

e. *Changes in registered user’s contact information.* If a registered user’s email address, mailing address, or telephone number changes, the user must promptly make the necessary changes to the registered user’s information contained in the electronic document management system. The registered user shall promptly give notice of changes in contact information to any nonregistered party in every active proceeding in which the registered user is a party.

f. *Duties of registered user.* Each registered user shall ensure that the user’s email account information is current, that the account is monitored regularly, and that email notices sent to the account are timely opened.

g. *Canceling registration.* Withdrawal from participation in the electronic document management system cancels the registered user’s profile but does not authorize nonelectronic filing of documents and is not a withdrawal from a proceeding.

h. *Agency-initiated registration.* The agency may complete the registration process on behalf of an individual in certain instances and email the username and password to the user. When the agency completes the registration process, the user is required to promptly log in and change the password. Following initial notification regarding account registration, the user is required to promptly update and maintain accurate contact information for the EDMS account.

16.3(2) Use of username and password. A registered user is responsible for all documents filed with the user’s username and password unless proven by clear and convincing evidence that the registered user did not make or authorize the filing.

16.3(3) Username and password security. If a username or password is lost, misappropriated, misused, or compromised, the registered user of that username/password shall notify the agency promptly.

16.3(4) Denial of access. The agency may refuse to allow an individual to electronically file or download information in the electronic document management system due to misuse, fraud or other good cause.

[ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 4457C, IAB 5/22/19, effective 6/26/19; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—16.4(20) Mandatory electronic filing and exceptions.

16.4(1) Electronic filing mandatory. Unless otherwise required or authorized by these rules, documents in all proceedings and documents required to be filed pursuant to 621—Chapter 8 must be filed using the agency’s electronic document management system.

16.4(2) Exceptions.

a. A show of interest submitted in a representative certification, combined bargaining unit determination or reconsideration/representative certification, or decertification proceeding shall not be filed electronically.

b. Any item that is not capable of being filed in an electronic format shall be filed in a nonelectronic format.

c. Upon a showing of exceptional circumstances that it is not feasible for an individual to file documents by electronic means, the board may excuse the individual from electronic filing in a particular proceeding.

d. A voter eligibility list submitted by an employer shall be emailed to the agency as provided in 621—subrule 5.2(2).

e. All filings in proceedings initially filed prior to January 1, 2015, unless converted to an electronic proceeding by board order, shall not be filed electronically.

16.4(3) What constitutes filing. The electronic transmission of a document to the electronic document management system consistent with the procedures specified in these rules, together with the production and transmission of a notice of electronic filing, constitutes filing of the document.

16.4(4) Electronic file stamp. Electronic documents are officially filed when affixed with an electronic file stamp. Filings so endorsed shall have the same force and effect as documents time-stamped in a nonelectronic manner.

16.4(5) Email or fax. Emailing or faxing a document to the agency will not generate a notice of electronic filing and does not constitute electronic filing of the document unless otherwise ordered by the agency.

16.4(6) Public assistance. The agency shall assist a member of the public with electronic filing upon request.

[ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 3278C, IAB 8/30/17, effective 8/10/17; ARC 4457C, IAB 5/22/19, effective 6/26/19; ARC 7011C, IAB 5/3/23, effective 6/7/23]

621—16.5(20) Filing of paper documents.

16.5(1) Conversion of paper documents filed. If the board allows a party to file paper documents in accordance with paragraph 16.4(2)“c,” the agency will convert the filed documents to an electronic format viewable to registered users of the electronic document management system.

16.5(2) Form of paper documents. Each document must be printed on only one side and be delivered to the agency with no tabs, staples, or permanent clips, but may be organized with paperclips, clamps, or some other type of temporary fastener or may be delivered to the agency in an appropriate file folder.

16.5(3) Return of copies by mail. If a party wants a document filed in paper form to be returned by mail, the party must deliver to the agency a self-addressed envelope, with proper postage, large enough to accommodate the returned document.

[ARC 1583C, IAB 8/20/14, effective 9/24/14]

621—16.6(20) Date and time of filing.

16.6(1) Date of filing. An electronic filing may be made any day of the week, including holidays and weekends, and any time of the day the electronic document management system is available.

16.6(2) Time of filing. A document is timely filed if it is filed before midnight on the date the filing is due.

16.6(3) *Returned filing.* A rejected filing is not filed. In such instances, the date and time of filing will be when the filer submits a corrected document and it is approved.

[ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—16.7(20) Signatures.

16.7(1) *Registered user.* A username and password accompanied by a digitized, electronic, or nonelectronic signature serve as the registered user's signature on all electronically filed documents.

16.7(2) *Documents requiring oaths, affirmations or verifications.* Any document filed requiring a signature under oath or affirmation or with verification may be signed electronically or nonelectronically but shall be filed electronically.

16.7(3) *Format.* Any filing requiring a signature must be signed, with either a nonelectronic signature (actual signature scanned), an electronic signature (the symbol “/s/” or “/registered user’s name/”), or a digitized signature (an inserted image of a handwritten signature). The following information about the person shall be included under the person's signature:

- a. Name;
- b. Name of firm, certified employee organization, or governmental agency;
- c. Mailing address;
- d. Telephone number; and
- e. Email address.

16.7(4) *Multiple signatures.* By filing a document containing multiple signatures, the registered user confirms that the content of the document is acceptable to all persons signing the document and that all such persons consent to having their signatures appear on the document.

[ARC 1583C, IAB 8/20/14, effective 9/24/14]

621—16.8(20) Redaction of electronic documents.

16.8(1) *Responsibilities of filers generally.*

a. Prior to filing any document, the registered user shall ensure that the document is certified as confidential or the confidential information is omitted or redacted in accordance with 621—subrule 2.13(2), and that protected information is omitted or redacted in accordance with 621—subrule 2.13(3). This responsibility exists even when the filer did not create the document.

b. The agency will not review filings to determine whether appropriate omissions or redactions have been made. The agency will not, on the agency's own initiative, redact or restrict access to documents containing protected information.

16.8(2) *Omission and redaction requirements.*

a. *Protected information that is not material to the proceedings.* A filer may redact protected information from documents filed with the agency when the information is not material to the proceedings.

b. *Protected information that is material to the proceedings.* When protected information is material to the proceedings, a filer must certify the document as confidential when submitting the filing to the agency.

16.8(3) *Information that may be redacted.* A filer may redact the following information from documents available to the public unless the information is material to the proceedings:

- a. Driver's license numbers.
- b. Information concerning medical treatment or diagnosis.
- c. Personal financial information.
- d. Sensitive security information.
- e. Home addresses.

16.8(4) *Improperly included protected information.* A party may ask the agency to restrict access to improperly included protected information from a filed document. The agency may order a properly redacted document to be filed.

[ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—16.9(20) General requirements when filing documents.

16.9(1) *Format.* All documents must be converted to a PDF before they are filed in EDMS. Documents submitted must be properly scanned, which includes having the pages in the correct order and facing right-side up and having the scanned content of the document be legible.

16.9(2) *Separating documents.* Each document must be separated and uploaded with the correct document type selection on the document upload page. Any attachments to a document shall be uploaded as such and linked to the correct document prior to submission.

16.9(3) *Selecting document types.* For each electronically filed document, a filer must choose an accurate document type from the options listed on the document upload page. Once a document is submitted into EDMS, only the agency may make corrections to the document type the filer has chosen.

16.9(4) *Correcting errors.* If a filer discovers an error in the electronic filing or docketing of a document, the filer must contact the agency as soon as possible. When contacting the agency, the filer must have available the case number of the document that was filed or docketed erroneously. If the agency discovers an error in the filing or docketing of a document, the agency will ordinarily notify the filer of the error and advise the filer of what further action the filer must take, if any, to address the error.

[ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—16.10(20) Service.

16.10(1) *Initial filing.* An initial filing in a proceeding shall be served upon other parties nonelectronically in the manner specified in rule 621—2.15(20). The document being served must be accompanied by an agency-approved information sheet regarding mandatory electronic filing. Unless exempted by subrule 16.4(2), proof of service of the initial filing shall be electronically filed.

16.10(2) *Subsequent filings.* All subsequent filings shall be electronically served via the electronic document management system, unless a party to the proceeding is exempted from electronically filing documents by subrule 16.4(2). If a party is so exempted, all documents filed by all parties to the proceeding shall be served in accordance with rule 621—2.15(20).

16.10(3) *Proof of service of nonelectronic filings.*

- a. Parties filing pursuant to paragraph 16.4(2)“b” shall file a proof of service electronically.
- b. Parties filing pursuant to the exceptional circumstances provision in paragraph 16.4(2)“c” must attach a nonelectronic proof of service to the filing.
- c. Parties to a proceeding initially filed prior to January 1, 2015, must attach a nonelectronic proof of service to their nonelectronic filings.

16.10(4) *Electronic service and distribution of electronic filings.*

- a. When a document is electronically filed, it will be served through the electronic document management system to all parties to the adjudicatory proceeding who are registered users. No other service is required unless ordered by the agency.
- b. Notices of electronic filing will continue to be sent to registered users appearing or intervening in a proceeding until they have filed a withdrawal of appearance.

16.10(5) *Agency-generated documents.*

- a. *Electronic filing and service.* All agency-generated documents issued in adjudicatory proceedings governed by this chapter shall be electronically filed and served.
- b. *Paper copies.* The agency shall not mail paper copies of any documents absent approval by the board.

[ARC 1583C, IAB 8/20/14, effective 9/24/14]

621—16.11(20) Discovery. Parties shall file a notice with the agency when a notice of deposition or a discovery request or response is served on another party. The notice filed with the agency shall include the date, manner of service, and the names and addresses of the persons served. Other discovery materials shall not be filed unless ordered by the presiding officer.

[ARC 1583C, IAB 8/20/14, effective 9/24/14]

621—16.12(20) Transcripts, briefs and exhibits.

16.12(1) *Transcripts.* If a hearing or oral argument is transcribed, the transcript shall be made available to registered users electronically after final agency action.

16.12(2) *Briefs.* Briefs and memoranda shall be electronically filed. Page numbers should be located at the bottom center of each page and numbered consecutively using Arabic whole numbers. The cover page should be numbered one.

16.12(3) *Exhibits.* Prior to offering an exhibit, the submitting party must redact the exhibit pursuant to rule 621—16.8(20). A party's exhibits admitted into evidence at a hearing shall be electronically filed by the party not later than the date ordered by the presiding officer or board. All exhibits shall be marked with an identifying number or letter, whichever is applicable. For each exhibit, the pages must be numbered consecutively with the first page numbered one.

[ARC 1583C, IAB 8/20/14, effective 9/24/14; ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—16.13(20) Public access with exceptions for closed hearings.

16.13(1) *General rule.* All filings with the agency are public unless system-restricted or filed with restricted access. Electronic filing does not affect public access to agency files.

16.13(2) *Closed hearings.* For proceedings in which a party has elected the right to a closed hearing, all initial pleadings must be filed without restriction. All briefs, exhibits, and transcripts must be filed as "confidential." The decision constituting final agency action will be filed with unrestricted access.

[ARC 4457C, IAB 5/22/19, effective 6/26/19]

621—16.14(20) Secure upload PERB (suPERB) registration, username, and password. SuPERB is the document management system used to upload and file documentation related to elections, internal conduct of employee organizations, contracts, impasse requests, and other documents as prescribed by the agency.

16.14(1) *Registration.*

a. Registration required. Employers, certified employee organizations, and bargaining units must ensure the necessary individuals representing their interest at the agency are registered and their information updated appropriately. Every individual filing documents or downloading filed documents must register as a registered user of suPERB.

b. How to register. To register, a user must request the creation of an account from the agency.

c. Registration complete. When the registration process is completed, the registered user will be assigned a username and password and the registered user may utilize suPERB.

d. Changing passwords. Once registered, the user may change the user's password. If the registered user believes the security of an existing password has been compromised, the registered user must change the password immediately. The agency may require password changes periodically.

e. Changes in registered user's contact information. If a registered user's email address, mailing address, or telephone number changes, the user must promptly make the necessary changes to the registered user's information contained in suPERB. The registered user shall promptly give notice of changes in contact information to any nonregistered party in every active proceeding in which the registered user is a party.

f. Duties of registered user. Each registered user shall ensure that the user's email account information is current, that the account is monitored regularly, and that email notices sent to the account are timely opened.

g. Agency-initiated registration. The agency may complete the registration process on behalf of an individual in certain instances and email the username and password to the user. When the agency completes the registration process, the user is required to promptly log in and change the password. Following initial notification regarding account registration, the user is required to promptly update and maintain accurate contact information for a suPERB account.

16.14(2) *Use of username and password.* A registered user is responsible for all documents filed with the user's username and password unless proven by clear and convincing evidence that the registered user did not make or authorize the filing.

16.14(3) *Username and password security.* If a username or password is lost, misappropriated, misused, or compromised, the registered user of that username/password shall notify the agency promptly.

16.14(4) *Denial of access.* The agency may refuse to allow an individual to electronically file or download information in suPERB due to misuse, fraud or other good cause.

16.14(5) *Public access.* All documents publicly available and contained within suPERB will not require a user account to access. The public-facing search portal provides access to public documents and is searchable free of charge.

[ARC 7011C, IAB 5/3/23, effective 6/7/23]

These rules are intended to implement Iowa Code section 20.24.

[Filed ARC 1583C (Notice ARC 1507C, IAB 6/25/14), IAB 8/20/14, effective 9/24/14]

[Filed Emergency ARC 3278C, IAB 8/30/17, effective 8/10/17]

[Filed ARC 4457C (Notice ARC 4365C, IAB 3/27/19), IAB 5/22/19, effective 6/26/19]

[Filed ARC 7011C (Notice ARC 6912C, IAB 2/22/23), IAB 5/3/23, effective 6/7/23]

CHAPTER 17
STATE EMPLOYEE WHISTLEBLOWER ACTIONS

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

621—17.1(20,70A) Notice of appeal rights. A state executive branch employee, except a merit system employee or an employee covered by a collective bargaining agreement, may file an appeal with the public employment relations board for adverse employment action taken as a result of the employee's disclosure of information protected by Iowa Code section 70A.28.

[ARC 4459C, IAB 5/22/19, effective 6/26/19]

621—17.2(20,70A) Filing of appeal.

17.2(1) *Timeline.* The employee must file the appeal within 30 calendar days following the later of the effective date of the action or the date a finding is issued to the employee by the office of ombudsman pursuant to Iowa Code section 2C.11A.

17.2(2) *Method of filing.* Appeals shall be electronically filed pursuant to 621—Chapter 16.

[ARC 4459C, IAB 5/22/19, effective 6/26/19]

621—17.3(20,70A) Service of appeal. The agency shall serve a copy of the appeal upon the Iowa department of administrative services director (hereinafter referred to as the director) by ordinary mail in the manner specified in rules 621—2.15(20) and 621—16.10(20).

[ARC 4459C, IAB 5/22/19, effective 6/26/19]

621—17.4(20,70A) Content of appeal.

17.4(1) The appeal shall contain the following:

- a. Name, address, telephone number, and email address of the appealing employee;
- b. Name of agency/department by which the appealing employee is/was employed;
- c. A brief statement of the reasons for the employee's appeal;
- d. A statement of the requested remedy;
- e. The name, address, telephone number, and email address of the appealing employee's representative, if any;
- f. The signature of the appealing employee or employee's representative;
- g. A statement of whether the employee requests a hearing open to the public; and
- h. A statement of whether the employee filed a complaint with the office of ombudsman and the date of the filing, if applicable.

17.4(2) Completion of the State Employee Whistleblower Action Appeal Form shall constitute compliance with all of the requirements in subrule 17.4(1).

[ARC 4459C, IAB 5/22/19, effective 6/26/19]

621—17.5(20,70A) Content of director's response to the appeal.

17.5(1) The director shall have 15 days from the date of service of the employee's appeal in which to file a motion or answer with the agency.

17.5(2) The motion or answer shall contain the following:

- a. The names of the appealing employee and the employing agency/department;
- b. The name, address, telephone number, and email address of the employing agency's/department's representative;
- c. The response or answer to the employee's appeal, which shall specifically admit or deny each allegation of the appeal and may set forth additional facts deemed to constitute a defense. If the appellee is without knowledge sufficient to make an admission or denial concerning an allegation, the answer shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation but shall fairly meet the substance of the allegation. Additional facts set forth in the answer shall be deemed denied by the appellant;
- d. The signature of the employing agency's/department's representative.

17.5(3) The director's motion or answer shall be electronically filed pursuant to 621—Chapter 16.

[ARC 4459C, IAB 5/22/19, effective 6/26/19]

621—17.6(20,70A) Right to a hearing. An employee appealing adverse employment action pursuant to Iowa Code section 70A.28 has a right to a hearing which is closed to the public unless the employee requests a hearing open to the public. Hearings will otherwise be conducted in accordance with 621—Chapter 2.

[ARC 4459C, IAB 5/22/19, effective 6/26/19]

621—17.7(20,70A) Final decisions.

17.7(1) When a majority of the board presides at the reception of the evidence in a state employee whistleblower action proceeding, the decision of the board is the final decision of the agency.

17.7(2) When a majority of the board does not preside at the reception of the evidence in a state employee whistleblower action proceeding, the presiding officer shall make a proposed decision that becomes the final decision of the agency without further proceedings unless:

- a. There is an appeal to the board filed within 20 days of the filing of the proposed decision, or
- b. The board, within 20 days of the filing of the proposed decision, determines to review the decision on its own motion.

[ARC 4459C, IAB 5/22/19, effective 6/26/19]

621—17.8(20,70A) Review by board. Proceedings on the board's review of the proposed decision shall be in accordance with 621—Chapter 9.

[ARC 4459C, IAB 5/22/19, effective 6/26/19]

621—17.9(20,70A) Other rules. Any matters not specifically addressed by the rules contained in this chapter shall be governed by the general provisions of the rules of the agency.

[ARC 4459C, IAB 5/22/19, effective 6/26/19]

These rules are intended to implement Iowa Code chapters 20 and 70A.

[Filed ARC 4459C (Notice ARC 4364C, IAB 3/27/19), IAB 5/22/19, effective 6/26/19]