# WORKFORCE DEVELOPMENT DEPARTMENT[871]

[Prior to 9/24/86, see Employment Security[370], renamed Job Service Division[345]
under the "umbrella" of Department of Employment Services by 1986 Iowa Acts, chapter 1245]
[Prior to 3/12/97, see Job Service Division[345],
renamed Department of Workforce Development by 1996 Iowa Acts, chapter 1186]

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Title I
GENERAL AGENCY PROVISIONS

# CHAPTER 1
# ADMINISTRATION

Chapter rescission date pursuant to Iowa Code section 17A.7: 10/9/29

**871—1.1(84A) Mission and overall organization.**

**1.1(1)** *Mission.* We power Iowa's possibilities by connecting workers to opportunities and employers to workforce solutions.

**1.1(2)** *Vision.* To create, enable and sustain the most future ready workforce in the nation.

**1.1(3)** *Overall organization.* The chief executive officer of the department is the director of the department of workforce development who shall be appointed by the governor with the approval of two-thirds of the members of the senate and is responsible directly to the governor.

[**ARC 8207C**, IAB 9/4/24, effective 10/9/24]

This rule is intended to implement Iowa Code chapter 84A.

[Filed 2/20/97, Notice 1/15/97—published 3/12/97, effective 4/16/97]
[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]
[Filed ARC 3265C (Notice ARC 3138C, IAB 6/21/17), IAB 8/16/17, effective 9/20/17]
[Filed ARC 8207C (Notice ARC 8130C, IAB 7/10/24), IAB 9/4/24, effective 10/9/24]
[Editorial change: IAC Supplement 5/14/25]

# CHAPTER 2
# REQUEST FOR WAIVER OF ADMINISTRATIVE RULE

[Prior to 5/14/25, see Workforce Development Department[871] Ch 41]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/29/30

**871—2.1(17A) Requests for waiver of rules.** Any person may file a request for waiver of an administrative rule of the workforce development department[871] by writing a proper request, which is received by the Deputy Director of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. All requests for waiver of an administrative rule should be in writing and meet all requirements set out in this chapter. A request is deemed filed when it is received by the deputy director. The agency should provide the requester with a file-stamped copy of the request if the requester provides the agency an extra copy for this purpose. The request should be emailed, typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA WORKFORCE DEVELOPMENT

| | | |
|---|---|---|
| (Name of person requesting waiver) | } | Request for waiver of (specify rule for which waiver is requested) |

The petition should provide the following information:

1. The name and address of the person or entity for whom a waiver is requested.
2. A description and citation of the specific rule for which a waiver is requested.
3. The specific waiver requested, including the precise scope and time period that the waiver will extend.
4. Relevant facts that the requester believes would justify a waiver. This statement should include a signed statement from the petitioner attesting to the accuracy of the facts.
5. A history of the agency's action relative to the requester.
6. Any information regarding the agency's treatment of similar cases, if known.
7. The name, address and telephone number of any person inside or outside state government who would be adversely affected by the grant of the request, or who otherwise possesses knowledge of the matter with respect to the waiver request.
8. Signed release of information authorizing persons with knowledge regarding requests to furnish the agency with information pertaining to the waiver, if necessary.

[**ARC 8689C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—2.2(17A) Procedural requirements.**

**2.2(1)** The department should acknowledge a request upon receipt. Within 30 days after receipt of a request for waiver of an administrative rule, the agency verifies that the requester has provided a copy to anyone who is required to receive one by provision of law. The agency may also require the requester to send a copy of the request to other persons who would have an interest in the subject matter.

**2.2(2)** The agency grants or denies a request for waiver of all or a portion of a rule as soon as practical. This will be done within 120 days of its receipt, unless requester agrees to a later date. However, if a waiver request has been filed in a contested case proceeding, the agency shall grant or deny the request no later than the time at which the final decision in that contested case is issued. Failure of the agency to grant or deny such a request within the required time period is a denial of that request by the agency. If the request for waiver relates to a time requirement of an administrative rule, the request must be received before the time specified in the rule has expired. Within seven days of its issuance, any response issued under this rule shall be transmitted, normally by depositing it in the mail, to the requester or the person to whom the response pertains and to any other person entitled to such notice by any provision of law.

[**ARC 8689C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—2.3(17A) Criteria for waiver.**

**2.3(1)** The director of the workforce development department decides whether circumstances justify the granting of a waiver, given relevant facts. The requester assumes the burden of persuasion involving a request for waiver of an administrative rule. The requester must provide clear and convincing evidence that compliance with the rule will create an undue hardship on the person for whom the waiver is requested; the waiver of the rule on the basis of the particular circumstances relevant to that specified person would be consistent with public interest; substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested; and the waiver of the rule in the specific case would not prejudice the substantial legal rights of any person.

**2.3(2)** The agency will deny a request for waiver of an administrative rule if the request waives any statute in whole or part. The agency should deny any request if it does not comply with the provisions of this rule. The agency may grant waiver of a rule if it finds that application of all or a portion of the rule to the circumstances of the specified person would not, to any extent, advance or serve any purposes of the rule. The agency will deny a request unless there are exceptional circumstances justifying an exception to the general application of the rule in otherwise similar circumstances. A waiver will be denied if the material facts presented in the request are not true or material facts have been withheld. The agency may request additional information from the requesting party relative to the application and surrounding circumstances.

[**ARC 8689C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—2.4(17A) Public inspection.** All waiver requests and responses shall be indexed by administrative rule number and available to members of the public for inspection at Workforce Development Department, 1000 East Grand Avenue, Des Moines, Iowa. Identifying information concerning individuals as unemployment benefit claimants and taxpayers and other identifying information may be withheld by the agency in order to protect the confidentiality of parties as required by Iowa Code chapter 96.

[**ARC 8689C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

These rules are intended to implement Iowa Code chapter 17A.

[Filed 7/24/00, Notice 1/26/00—published 8/23/00, effective 9/27/00]

[Filed ARC 8689C (Notice ARC 8309C, IAB 10/30/24), IAB 12/25/24, effective 1/29/25]

[Editorial change: IAC Supplement 5/14/25]

# CHAPTER 3
# PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[Prior to 3/12/97 see Employment Services[341] Ch 2]
[Prior to 5/14/25, see Workforce Development Department[871] Ch 42]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/29/30

The department of workforce development hereby adopts, with the following exceptions and amendments, the Uniform Rules of Agency Procedure relating to public records and fair information practices, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25]

**871—3.1(22,84A) Definitions.** As used in this chapter:

*"Agency."* In lieu of the words "(official or body issuing these rules)", insert "the Department of Workforce Development".

*"Person"* means an individual, corporation, governmental entity, estate, trust, partnership, association, or any other legal entity.

*"Personally identifiable information."* In lieu of the words "an individual in a record that identifies the individual and that is contained in a record system", insert "a person in a record that identifies the person and that is contained in a record system".

*"Record system."* In lieu of the words "an individual, number, symbol, or other unique retriever assigned to an individual", insert "a person, number, symbol or other unique retriever assigned to the person".

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—3.3(22,84A) Request for access to records.**

**3.3(1)** *Location of record.* In lieu of the words "(insert agency head)", insert "director". Also, in lieu of the words "(insert agency name and address)", insert "Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319".

**3.3(2)** *Office hours.* In lieu of the words "(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert "8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays".

**3.3(4)** *Response to requests.* In lieu of the words "X.4", insert "871—3.4(22,84A)".

**3.3(7)** *Fees.*

*c.* *Supervisory fee.* In lieu of the words "(specify time period)", insert "one-half hour".

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—3.4(22,84A) Access to confidential records.** In lieu of the words "rule X.3", insert "rule 871—3.3(22,84A)".

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—3.6(22,84A) Procedure by which additions, dissents, or objections may be entered into certain records.** In lieu of the words "(designate office)", insert "the Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319".

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—3.7(22,84A) Consent to disclosure by the subject of a confidential record.** Remove the parentheses around "(and, where applicable, the time period during which the record may be disclosed)".

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—3.9(22,84A) Disclosure without the consent of the subject.**

**3.9(1)** An open record is routinely disclosed without the consent of the subject.

**3.9(2)** To the extent allowed by law, disclosure of a confidential record may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without consent of the subject:

*a.* For a routine use as defined in rule 871—3.10(22,84A).

*b.* To another governmental agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such governmental agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

*c.* To the legislative services agency under Iowa Code section 2A.3.

*d.* Disclosure in the course of employee disciplinary proceedings.

*e.* In response to a court order or subpoena.

*f.* To the citizens' aide under Iowa Code section 2C.9(3).

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—3.10(22,84A) Routine use.**

**3.10(1)** Defined. "Routine use" means the disclosure of a record without the consent of the subject, for a purpose that is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

**3.10(2)** To the extent allowed by law, the following uses are considered routine uses of all agency records:

*a.* Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer, employee, and agent, or on the custodian's own initiative, determine what constitutes legitimate need to use a confidential record.

*b.* Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

*c.* Disclosure to the department of inspections, appeals, and licensing for matters in which it is performing services or functions on behalf of the agency.

*d.* Disclosure to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—3.11(22,84A) Release to a subject.**

**3.11(1)** The subject of a confidential record may file a written request to review a confidential record about that person as provided in rule 871—3.6(22,84A). However, the agency will not release the following records to the subject:

*a.* The identity of a person providing information to the agency when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

*b.* A record need not be disclosed to the subject when it is the work product of an attorney or is otherwise privileged.

*c.* A peace officer's investigative report should be withheld from the subject, except as required by Iowa Code section 22.7(5).

*d.* As otherwise authorized by law.

**3.11(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—3.12(22,84A) Availability of records.**

**3.12(1)** *Open records.* Agency records are open for public inspection and copying unless otherwise provided by law or rule.

**3.12(2)** *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

*a.* Labor market records made available to the agency under an agreement with the United States Department of Labor, Bureau of Labor Statistics, and withheld from public inspection pursuant to 29 Code of Federal Regulations 70 dated July 1, 1987.

*b.* County economic development survey records made available to the agency under an agreement with the department of workforce development, and withheld from public inspection pursuant to Iowa Code section 96.11(7).

*c.* Sealed bids received prior to the time set for public opening of bids pursuant to Iowa Code section 72.3.

*d.* Tax records made available to the agency pursuant to Iowa Code sections 422.20 and 422.72.

*e.* Records that are exempt from disclosure under Iowa Code section 22.7.

*f.* Minutes of closed meetings of a government body pursuant to Iowa Code section 21.5(4).

*g.* Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)*"d."*

*h.* Those portions of the agency's staff manuals, instructions or other statements issued that set forth criteria or guidelines to be used by the agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would, pursuant to Iowa Code sections 17A.2 and 17A.3:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency.

*i.* Records that constitute attorney work product, attorney-client communications, or that are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10, and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

*j.* Unemployment insurance division tax and claim records pursuant to Iowa Code section 96.11(6) unless the records become part of the record in a hearing before an administrative law judge in a contested case pursuant to Iowa Code chapter 96.

**3.12(3)** *Authority to release confidential records.* The agency may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute that authorizes limited or discretionary disclosure as provided in rule 871—3.4(22,84A). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 3.4(3).

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—3.13(22,84A) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 871—3.1(22,84A). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

**3.13(1)** The record systems maintained by the agency are:

*a. Labor market records.* These records are collected from employing units under an agreement with the United States Department of Labor, Bureau of Labor Statistics, for the purposes of analyzing and distributing general labor market information including current employment statistics, employment by occupation statistics, local area unemployment statistics, wage and hour statistics, and permanent mass layoff and plant closing statistics. These records are stored in an automated data processing system and may be retrieved by a personal identifier.

*b. County economic development survey records.* These records are collected from employing units and individuals under an agreement with the department of workforce development, for the purposes of providing local economic development groups with statistical information on the number and characteristics of individuals available for employment within a county as well as providing employee wage by occupation and benefit information. These records are stored in an automated data processing system and may be retrieved by a personal identifier.

*c. Personnel files.* The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include 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 is confidential under Iowa Code section 22.7(11). Some of these records are stored in an automated data processing system and may be retrieved by a personal identifier.

*d. Other groups of records routinely available for public inspection.* This paragraph describes groups of records maintained by the agency other than in a record system as defined in rule 871—3.1(22,84A):

(1) Rulemaking. Rulemaking records may contain information about persons making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

(2) Committee records. Agendas, minutes, and materials presented to the department of workforce development coordinating committee are available from the custodian, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5(4). Coordinating committee records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code sections 21.3 and 84A.2(4). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

(3) Publications. News releases, annual reports, project reports, agency newsletters, brochures, etc., are available at the administrative office of the agency. These may contain information about persons, including agency staff or members of agency committees. These records are not stored on an automated data processing system and may not be retrieved by a personal identifier.

(4) Statistical reports. Periodic reports of labor market information are available from the agency. Statistical reports do not contain information about persons.

(5) Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that is confidential according to paragraph 3.12(2)*"g."* These records may contain information about a person collected under the authority of Iowa Code section 84A.1.

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

(7) Policy manuals. The agency employees' manual, containing the policies and procedures for programs administered by the agency, is available in the administrative office of the agency. Subscriptions to all or part of the employees' manual are available at the cost of production and handling. Requests for subscription information should be addressed to the custodian of the record, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. Policy manuals do not contain information about persons.

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

**3.13(2)** All data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—3.14(22,84A) Applicability.** This chapter does not:

1. Require the agency to index or retrieve records that contain information about persons by that person's name or other personal identifier.

2. Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency that are governed by the regulations of another agency.

4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings are governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

[**ARC 8690C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

These rules are intended to implement Iowa Code section 22.11.

[Filed 4/15/88, Notice 2/24/88—published 5/4/88, effective 6/8/88]
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[Editorial change: IAC Supplement 5/14/25]

# CHAPTER 4
# PETITIONS FOR RULEMAKING

[Prior to 3/12/97 see Employment Services[341] Ch 3]
[Prior to 5/14/25, see Workforce Development Department[871] Ch 43]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/29/30

**871—4.1(17A,84A) Petition for rulemaking.** Any person may file a petition for rulemaking with the department of workforce development at 1000 East Grand Avenue, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The agency should provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be emailed, typewritten, or legibly handwritten in ink, and should substantially conform to the following form:

DEPARTMENT OF WORKFORCE DEVELOPMENT

| | | |
|---|---|---|
| Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter). | } | PETITION FOR RULEMAKING |

The petition should provide the following information:

1. A statement of the specific rulemaking action sought by the petitioner, including the text or a summary of the contents of the proposed rule or amendment to a rule, and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the agency's authority to take the action urged or to the desirability of that action.
3. A brief summary of the petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by, or interested in, the proposed action that is the subject of the petition.
6. Any request by the petitioner for a meeting provided for by rule 871—4.4(17A,84A).

**4.1(1)** The petition should be dated and signed by the petitioner or the petitioner's representative. It should also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

**4.1(2)** The agency may deny a petition because it does not substantially conform to the required form.

[**ARC 8691C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—4.2(17A,84A) Briefs.** The petitioner may attach a brief to the petition in support of the action. The agency may request a brief from the petitioner or from any other person concerning the substance of the petition.

[**ARC 8691C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—4.3(17A,84A) Inquiries.** Inquiries concerning the status of a petition for rulemaking may be made to Director, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

[**ARC 8691C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—4.4(17A,84A) Agency consideration.**

**4.4(1)** Within 14 days after the filing of a petition, the agency should submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by the petitioner in the petition, the agency should schedule a brief and informal meeting between the petitioner and the agency, a member of the agency, or a member of the staff of the agency, to discuss the petition. The agency may request the petitioner to submit additional information or

argument concerning the petition. The agency may also solicit comments from any person on the substance of the petition. Any person may submit comments on the substance of the petition.

**4.4(2)** Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the agency should in writing, deny the petition and notify the petitioner of its action and the specific grounds for the denial, or grant the petition and notify the petitioner that it has instituted rulemaking proceedings on the subject of the petition. The petitioner is deemed notified of the denial or grant of the petition on the date when the agency mails or delivers the required notification to the petitioner.

**4.4(3)** Denial of the petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the agency's rejection of the petition.

[**ARC 8691C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

These rules are intended to implement Iowa Code chapters 17A and 84A.

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[Filed ARC 8691C (Notice ARC 8311C, IAB 10/30/24), IAB 12/25/24, effective 1/29/25]
[Editorial change: IAC Supplement 5/14/25]

# CHAPTER 5
# DECLARATORY ORDERS

[Prior to 3/12/97 see Employment Services[341] Ch 4]
[Prior to 5/14/25, see Workforce Development Department[871] Ch 44]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/29/30

**871—5.1(17A) Petition for declaratory order.** Any person may file a petition with the agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the department of workforce development at 1000 East Grand Avenue, Des Moines, Iowa 50319. If the petition deals with a statute within the express jurisdiction of one of the divisions, it shall be forwarded to that division for determination. Service of petitions for district court review of all agency decisions, rulings and actions (where such service is required by Iowa Code chapter 17A) will be made by the agency. Declaratory orders made by the divisions are considered final rulings for the agency with regard to Iowa Code chapter 17A.

A petition is deemed filed when it is received by that office. The agency shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency with an extra copy for this purpose. The petition should be emailed, typewritten or legibly handwritten in ink and should substantially conform to the following form:

DEPARTMENT OF WORKFORCE DEVELOPMENT

| | |
|---|---|
| Petition by (Name of Petitioner)<br>for a Declaratory Order on<br>(Cite provisions of law involved). | PETITION FOR<br>DECLARATORY ORDER |

The petition should provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by rule 871—5.4(17A,84A).

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

[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—5.2(17A) Notice of petition.** Within 15 days after receipt of a petition for a declaratory order, the agency should give notice of the petition to all persons not served by the petitioner pursuant to rule 871—5.6(17A) to whom notice is required by any provision of law. The agency may also give notice to any other persons.

[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—5.3(17A) Intervention.**

**5.3(1)** Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order are allowed to intervene in a proceeding for a declaratory order.

**5.3(2)** Any person who files a petition for intervention prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the department of workforce development.

**5.3(3)** A petition for intervention should be filed at 1000 East Grand Avenue, Des Moines, Iowa 50319. Such a petition is deemed filed when it is received by that office. The agency will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention should be typewritten or legibly handwritten in ink and should substantially conform to the following form:

DEPARTMENT OF WORKFORCE DEVELOPMENT

| | | |
|---|---|---|
| Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition). | } | PETITION FOR INTERVENTION |

The petition for intervention should provide the following information:

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

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

[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—5.4(17A) Briefs.** The petitioner or any intervenor may file a brief in support of the position urged. The department of workforce development may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—5.5(17A) Inquiries.** Inquiries concerning the status of a declaratory order proceeding may be made to Director, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—5.6(17A) Service and filing of petitions and other papers.**

**5.6(1)** *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order should be served upon each of the parties of record to the proceeding and on all other persons identified in the petition for declaratory order or petition for intervention, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

**5.6(2)** *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the director of the Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

**5.6(3)** *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by rule 871—26.11(17A,96).

[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—5.7(17A) Consideration.** Upon request by petitioner, the department of workforce development schedules a brief and informal meeting between the original petitioner, all intervenors and a member of the staff of the department of workforce development to discuss the questions raised. The agency may solicit comments from any person on the questions raised, and any person may submit comments.

[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—5.8(17A) Action on petition.**

**5.8(1)** After receipt of a petition or a declaratory order, the director of the department of workforce development or designee takes action on the petition as required by Iowa Code section 17A.9(5).

**5.8(2)** The date an order is issued or refused is defined in rule 871—72.2(17A,96).

[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—5.9(17A) Refusal to issue order.**

**5.9(1)** The department of workforce development will not issue a declaratory order where prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

*a.* The petition does not substantially comply with the required form.

*b.* The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department of workforce development to issue an order.

*c.* The agency does not have jurisdiction over the questions presented in the petition.

*d.* The questions presented by the petition are also presented in a current rulemaking, contested case, or other agency or judicial proceeding that may definitively resolve them.

*e.* The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

*f.* The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate.

*g.* There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

*h.* The petition is not based upon facts calculated to aid in the planning of future conduct but is instead based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a previously made agency decision.

*i.* The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that petitioner.

*j.* The petitioner requests the agency to determine whether a statute is unconstitutional on its face.

**5.9(2)** A refusal to issue a declaratory order will indicate the specific grounds for the refusal and constitutes final agency action on the petition.

**5.9(3)** Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue a ruling.

[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—5.10(17A) Contents of declaratory order—effective date.** In addition to the ruling itself, a declaratory order contains the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—5.11(17A) Copies of orders.** A copy of all orders issued in response to a petition for a declaratory order are mailed promptly to the original petitioner and all intervenors.
[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

**871—5.12(17A) Effect of a declaratory order.** A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the department of workforce development, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the department of workforce development. The issuance of a declaratory order constitutes final agency action on the petition.
[**ARC 8692C**, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

These rules are intended to implement Iowa Code chapter 17A.

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## CHAPTER 6
Reserved

Title II
UNEMPLOYMENT INSURANCE AND RESEARCH AND INFORMATION SERVICES

## CHAPTERS 7 to 9
Reserved

# CHAPTER 10
# RESEARCH AND INFORMATION SERVICES DIVISION

Chapter rescission date pursuant to Iowa Code section 17A.7: 9/11/29

**871—10.1(84A) Mission and organization.**

**10.1(1)** *Mission.* The labor market information division conducts research, develops labor market information, and provides information services in support of the department of workforce development's mission.

**10.1(2)** *Operation and administration.* The division is under the direction of a division administrator who reports to the deputy director. The division functions include planning, researching, analyzing, and reporting labor market information. The division administrator directs and leads labor market research, workforce data collection, and related projects.

[**ARC 8194C**, IAB 8/7/24, effective 9/11/24]

**871—10.2(84A) Research and reporting bureau.** The bureau is under the direction of the division administrator and is responsible for research and reporting functions of the unemployment compensation program in Iowa. The bureau is responsible for:

1. Calculating the financial impact of proposed changes to Iowa's unemployment compensation system with regard to the unemployment compensation fund, employer tax rates, and claimant benefits.
2. Monitoring the unemployment compensation fund solvency and writing legislative proposals recommending revisions to the tax and benefits sections in Iowa Code chapter 96.
3. Producing required and special reports analyzing and reporting the unemployment compensation system workload activities, employer compensation payments, and claimant benefit payments.
4. Calculating the contribution rate tables for private employers and the base rate for nonprofit and government employers.
5. Preparing, analyzing and distributing projected industry and occupational employment information for the state and service delivery areas.
6. Preparing and distributing economic analyses of the Iowa labor market in hard copy and electronic formats and by in-person presentations.
7. Conducting labor market research using surveys and secondary and administrative data to provide understanding of the labor supply and demand.
8. Collecting and reporting workplace injury, illness, and fatality statistics.
9. Providing training in the uses of occupational and labor market information to school counselors, teachers and labor market intermediaries.

[**ARC 8194C**, IAB 8/7/24, effective 9/11/24]

**871—10.3(84A) Labor statistics bureau.** The bureau is under the direction of a chief who assists the division administrator in planning, directing and coordinating the production of employment data for Iowa and the counties. The bureau is responsible for:

1. Collecting, analyzing and summarizing data and producing monthly employment and earnings estimates for Iowa, metropolitan statistical areas (MSAs) in Iowa, and counties in Iowa.
2. Collecting, analyzing and summarizing employment and wage data from Iowa employers subject to the unemployment insurance law to produce statewide and county data by industrial groups.
3. Providing occupational and training information to planners of vocational and other training programs.
4. Paying special attention to the career development and labor market information needs of Iowans.
5. Providing training in the uses of occupational and labor market information to school counselors, teachers and labor market intermediaries.
6. Collecting, preparing, analyzing and distributing labor force, unemployment, unemployment rate and total employment information for the state, MSAs, counties and selected cities in Iowa.
7. Collecting, preparing, analyzing and distributing occupational employment and occupational wage information for the state, MSAs and the balance of the state.

8. Developing and maintaining a national reporting system for the Current Employment Statistics program.

[**ARC 8194C**, IAB 8/7/24, effective 9/11/24]

These rules are intended to implement Iowa Code chapter 84A.

[Filed 2/20/97, Notice 1/15/97—published 3/12/97, effective 4/16/97]

[Filed ARC 8194C (Notice ARC 8065C, IAB 6/12/24), IAB 8/7/24, effective 9/11/24]

# CHAPTER 11
# EMPLOYER RECORDS AND REPORTS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/29/30

**871—11.1(96) Records.** Each employer shall keep records and submit reports at such times as the department may require, and shall comply with the instructions printed upon any report forms issued by the department pertaining to the preparation and return of such reports.
[**ARC 8686C**, IAB 12/25/24, effective 1/29/25]

**871—11.2(96) Filing of multiple worksite report.** Each employer having more than one physical worksite at which workers are employed shall file a Multiple Worksite Report (BLS 3020) for each quarter, providing monthly employment for the three payroll periods that include the twelfth of each month and the amount of wages subject to the unemployment insurance law for each location within this state. This report is required as a supplement to the Employer's Contribution and Payroll Report. Failure to provide this report may result in the assessment of a penalty as provided for in rule 871—23.60(96).
[**ARC 8686C**, IAB 12/25/24, effective 1/29/25]

**871—11.3(96) Filing of industry verification statement.** Each employer shall complete the Industry Verification Statement, BLS 3023VS or 3023VM, for the purpose of verifying the primary products or services of each physical worksite.
[**ARC 8686C**, IAB 12/25/24, effective 1/29/25]

These rules are intended to implement Iowa Code chapter 96.

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# CHAPTER 12
# FORMS AND INFORMATIONAL MATERIALS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/29/30

**871—12.1(96) Federal restriction—forms.** The research and information services division uses many federally prepared and supplied forms that contain an office of management and budget (OMB) number and an approved expiration date. The department, which receives and uses in its normal operations such federal forms through a federally appointed special agent, is subject to all of the provisions, restrictions, sanctions and penalties imposed by the Federal Reports Act of 1942 and subsequent amendments.

Form No. Name and description of form.

**12.1(1)** *Federal forms.*

*a. BLS 790, Bureau of Labor Statistics Report on Employment, Payroll and Hours.* A research and information services division shuttle schedule sent each month, to a sample of Iowa employers, to collect employment, payroll and hours worked information.

*b. BLS 3020, Multiple Worksite Report (65-5519) [reference 345—2.3(96)].* A research and information services division form required each quarter of Iowa employers subject to the unemployment insurance law.

*c. BLS 3023VS, Industry Verification Statement (single worksite).* A research and information services division form required of employers on a periodic basis to verify the products or services, or both, provided by an employer to ensure that the correct North American Industry Classification System code is assigned to the employer's unemployment insurance account.

*d. BLS 3023VM, Industry Verification Statement (multiple worksites).* A research and information services division form required of employers on a periodic basis to verify the products or services, or both, provided at each worksite by an employer to ensure that the correct North American Industry Classification System code is assigned to each employer location.

*e. BLS 2877, Occupational Employment Survey.* Sent twice a year to a sample of employers. Voluntary. Used to obtain confidential information on occupational employment and occupational wages by industry. Forms differ by industry.

**12.1(2)** *State form.* E-Z Form—for Occupational Employment Survey. Short form for collecting confidential occupational employment and occupational wages. Voluntary.

This rule is intended to implement Iowa Code chapter 96.

[**ARC 8687C**, IAB 12/25/24, effective 1/29/25]

[Filed 2/20/97, Notice 1/15/97—published 3/12/97, effective 4/16/97]

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CHAPTER 13
NEW EMPLOYMENT OPPORTUNITIES FUND
Rescinded **ARC 8227C**, IAB 9/18/24, effective 10/23/24

CHAPTER 14
NEW IOWAN CENTERS
Rescinded **ARC 8208C**, IAB 9/4/24, effective 10/9/24

CHAPTER 15
Reserved

CHAPTER 16
EMPLOYER INNOVATION FUND
Rescinded **ARC 8228C**, IAB 9/18/24, effective 10/23/24

CHAPTERS 17 to 20
Reserved

# CHAPTER 21
# UNEMPLOYMENT INSURANCE SERVICES DIVISION

Chapter rescission date pursuant to Iowa Code section 17A.7: 12/18/29

**871—21.1(96) Unemployment insurance services division.** The primary responsibility of the unemployment insurance services division is to administer the provisions of the Iowa employment security law and related federal programs in accordance with pertinent laws, regulations, and policies. The division administers the payment of job insurance benefits to eligible individuals, determines which employers are subject to the state and federal laws enacted in this area, supervises the collection of taxes from these employers, and oversees a program to control the quality of benefit payment and revenue collection. These functions are performed by the following bureaus:

**21.1(1)** *Benefits bureau.* The benefits bureau determines the eligibility of individuals claiming unemployment insurance. It processes unemployment compensation in accordance with Iowa Code sections 96.1A(32), 96.7(2)*"d,"* and 96.40 and is responsible for payments of other special federal unemployment insurance benefits as agreed to by the United States Department of Labor and the state of Iowa. The benefits bureau is responsible for:

*a.* Screening all employer protests,

*b.* Investigating all labor dispute protests and issuing appropriate decisions,

*c.* Performing fact-finding interviews with claimants and employers to resolve issues such as the determination of claimant eligibility and employer liability for benefit charges,

*d.* Responding to communications involving technical matters related to unemployment insurance,

*e.* Correcting records due to reversal or modification of a decision on appeal,

*f.* Processing initial interstate claims; processing combined wage claims; and issuing duplicate benefit payments for lost, stolen, outdated, or returned payments,

*g.* Retaining and organizing records, producing records as required by law, and collecting fees for such production, and

*h.* Maintaining the voluntary income tax withholding program in accordance with Iowa Code section 96.3(10) and reporting tax withholding and taxable benefits to the relevant federal and state authorities.

**21.1(2)** *Tax bureau.* The tax bureau is responsible for contacting Iowa and out-of-state employers that do business in Iowa to establish taxpayers' liability under the law. This includes:

*a.* Maintaining and controlling all records of unemployment insurance taxes paid in the state and assigning rates each year to each employer,

*b.* Collecting and depositing all money received for contribution reports, delinquent contribution reports, benefit reimbursements, interest, and penalties with the state treasurer's office,

*c.* Initiating routine legal actions such as the filing of liens, garnishments, and bankruptcies,

*d.* Conducting investigations on Federal Unemployment Tax Act (FUTA) discrepancy problems, contractor registration issues, business closings, and claimant requests for omitted wage credits, and

*e.* Determining employer/employee and independent contractor relationship issues.

**21.1(3)** *Integrity bureau.* The integrity bureau consists of the following three distinct work units:

*a. Investigations and recovery unit.* The investigations and recovery unit was established to prevent, detect, investigate, and penalize unemployment insurance benefit fraud. The unit verifies whether aliens are entitled to unemployment insurance and investigates and disqualifies those who are not eligible, conducts the fictitious employer detection program to discover employers set up for the purpose of fraudulent activities, and investigates and determines whether an unemployment insurance warrant has been forged and whether it should be reissued.

*b. Benefits collections unit.* The benefits collections unit is responsible for benefit overpayment recovery, including the collection of benefit overpayments and penalties; initiating routine legal actions similar to those of the tax bureau; and utilizing state and federal programs to access claimants' Iowa and federal income tax refunds, Iowa lottery prizes, and Iowa vendor payments.

*c. Quality control unit.* The quality control unit works to support the development and execution of corrective action plans for the improvement of the unemployment insurance program. The unit is

responsible for the collection and analysis of data pertaining to the accuracy of unemployment insurance benefit payments and denial determinations, validation of the unemployment insurance data reports, identification and analysis of risk factors that could threaten the unemployment insurance program, and maintenance of the data-processing capabilities to store and transmit various agency-required reports to the federal government.

This rule is intended to implement Iowa Code chapter 96.

[**ARC 8359C**, IAB 11/13/24, effective 12/18/24]

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[Filed ARC 8359C (Notice ARC 8216C, IAB 9/18/24), IAB 11/13/24, effective 12/18/24]

# CHAPTER 22
# EMPLOYER RECORDS AND REPORTS

[Prior to 9/24/86, Employment Security [370] Ch 2]
[Prior to 3/12/97, Job Service Division [345] Ch 2]

Chapter rescission date pursuant to Iowa Code section 17A.7: 12/18/29

**871—22.1(96) Records to be kept by the employer.**

**22.1(1)** Each employing unit shall maintain, for a period of five years after the calendar year in which the remuneration to which they relate was paid or, if not paid, was due, records evidencing remuneration made by the employing unit and reportable to the department.

**22.1(2)** Such records shall show with respect to each employee:

*a.* Name of worker.

*b.* Social security number.

*c.* Date on which the employee was hired, was rehired, or returned to work after a temporary layoff and the date on which the employee was separated from work and the reason therefor.

*d.* Scheduled hours, except for workers without a fixed schedule of hours, such as those working outside of the employer's establishment in such a manner that the employer has no definite knowledge of their working hours.

*e.* Total wages paid for employment in each period and the date of payment. For all pay periods ending in each quarter, the records must show separately the following: money wages; the cash value of other remuneration, including wages in lieu of notice, bonuses, gifts, and prizes; the nature of payments such as accounts paid to employees as allowance or reimbursement for traveling and other business expenses; and the amounts of such expenditures actually incurred and accounted for by the employees.

*f.* The state or states, and the name of the Iowa county, if applicable, in which the services are performed. If any of such services are performed outside of this state, employers are subject to 871—subrule 23.24(1).

*g.* When the pay period covers services performed both in covered employment and in excluded work, the hours and wages for covered employment under the Iowa employment security law, hereinafter referred to as the "Act," and hours and wages for excluded work.

*h.* The physical worksite at which each employee worked during each pay period that includes the twelfth of each month. If an employee worked at more than one worksite, the worksite at which the majority of the work was performed should be the one on record.

**22.1(3)** Such payroll records may be preserved by the employer in an electronic format, provided the employer is willing to provide access to such records as may be required by the department.

**22.1(4)** Any employing unit having its principal place of business outside of Iowa shall maintain payroll records in this state with respect to wages paid to employees who perform some service in this state. An out-of-state employing unit may, with the approval of the department, maintain such payroll records outside the state if the employing unit agrees to furnish the department with a true and correct copy of such payroll records upon request. The department may make estimated reports and payroll listings upon an out-of-state employing unit's failure to maintain said records in Iowa as required.

This rule is intended to implement Iowa Code section 96.11(6)*"a."*

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.2(96) Reports.** Each employing unit shall comply with the instructions issued by the department pertaining to the preparation and filing of reports.

This rule is intended to implement Iowa Code section 96.11(1).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.3(96) Filing employer's contribution and payroll report.**

**22.3(1)** Each employer shall, by the due date, electronically submit contribution and payroll for each quarter listing wages paid with respect to all the employer's business maintained within this state computed in accordance with the Iowa Code and these rules.

**22.3(2)** A copy of each such report shall be preserved by each such employer for a period of at least five years from the end of the calendar year in which the report was due.

**22.3(3)** Every qualified or subject employer is required to file contribution and payroll each quarter, even if an employer finds that for some particular quarter no contributions are due or the employer has no employees during the period covered.

**22.3(4)** Combined reports, leased employees, and concurrently employed individuals.

*a.* Consolidated or combined reports of parent and subsidiary corporations or other employing units, whether or not the employing units are related, are not permitted.

*b.* Employees of parent and subsidiary corporations or other employing units, whether or not they are related, shall be reported on the quarterly reports of the employing unit for which the services are performed regardless of which employing unit actually issues the employees' paychecks.

*c.* Leased employees.

(1) Except as described in subparagraphs 22.3(4)*"c"*(2) through 22.3(4)*"c"*(5), individuals leased from an employee leasing company, by the client of the employee leasing company, shall be considered to be employed by the client and shall be reported on the quarterly reports of the client, at the contribution rate of the client, unless and until it is shown to the satisfaction of the department that the individuals are and will continue to be under the exclusive direction and control of the employee leasing company, both under a written contract and in fact.

In order for a contract to be considered evidence that individuals are the employees of the employee leasing company, the contract shall:

1. Specify the service to be performed by the individuals, on behalf of the employee leasing company, for the client.

2. Specify the fee the client must pay for this service. The fee must be large enough to cover the actual cost of the individuals' wages and fringe benefits plus provide a reasonable profit on the service performed for the client.

3. Specify that the employee leasing company has the exclusive right to determine the number of individuals needed to provide the service for the client and to direct and control the individuals in the performance of the service.

4. Specify that the employee leasing company has the exclusive right to hire, fire, discipline, and reassign any of the individuals to another position or to another client without the consent of the client.

(2) If an individual is leased to fill a temporary need from a company whose business is primarily to provide workers to fill temporary needs, the individual shall be considered to be the employee of the leasing company as long as a written contract is in place.

(3) If an individual is a truck driver leased from a company that leases truck tractors with drivers to trucking companies, the individual shall be considered to be the employee of the leasing company unless and until it is shown to the satisfaction of the department that the trucking company has the exclusive right to hire, fire, discipline, reassign, and direct and control the services performed by the individual, both under a written contract and in fact.

(4) If an individual leased from an employee leasing company is a corporate officer of the client, the individual shall always be considered the employee of the client and not the employee of the leasing company.

(5) If an individual leased from an employee leasing company holds an exempt relationship, as described in Iowa Code section 96.1A(16)*"g,"* with the client, the individual shall not be considered to be an employee of either the client or the leasing company unless an election to cover the individual has been filed and approved in accordance with Iowa Code section 96.8(3)*"b."*

*d.* Concurrently employed individuals.

(1) Except as described in subparagraph 22.3(4)*"d"*(2), individuals who perform services concurrently for more than one employing unit, whether or not the employing units are related, shall be considered as working for each of the employing units and shall be reported on the quarterly reports of each of the employing units. Each of the employing units shall be required to pay contributions on the wages attributable to that employing unit up to the taxable wage base limit for each calendar year.

(2) An individual who concurrently performs services as a corporate officer for two or more related corporations and who is paid through a common paymaster that is one of the related corporations may be treated as working for only the common paymaster at the discretion of the related corporations.

**22.3(5)** The employer's contribution and payroll report shall include:

*a.* The social security number of, name (last name first) of, and total wages paid to each employee during the calendar quarter. All corrections to previous reports must be submitted electronically. All employees' wages will be reported by the reporting unit under which the work was performed.

*b.* Wages paid. The electronic system will calculate the taxable wages for each employee, contribution, interest, and penalty due for the calendar quarter and provide the employer with the sum of the total and taxable wages paid to all employees during the calendar quarter. If the employer is claiming taxable wages reported to another state, the amount claimed and the state that the wages were reported to will be listed.

*c.* The amount of extraordinary pay that was paid to the employees during the calendar quarter for each reporting unit.

*d.* The total number of employees who were paid wages during the pay periods that include the twelfth day of each month of the calendar quarter for each reporting unit.

*e.* The number of the county in which the reporting unit is located if only one business activity is conducted at only one worksite during the calendar quarter; however, if the same business activity is conducted at more than one worksite or if different business activities are conducted at one or more worksites, the employer shall include for each worksite the total number of employees paid wages during the pay periods that include the twelfth day of each month of the calendar quarter and the total wages paid during the calendar quarter. The system will compute and enter taxable wages.

The total number of employees paid wages during the pay periods that include the twelfth day of each month of the calendar quarter for all worksites should equal the total number of employees reported for that month.

*f.* The reason for the increase or decrease in total employment during the calendar quarter.

*g.* The electronic signature of the owner, responsible officer, or authorized agent of the employer certifying that the information given is true and correct to the best of the signer's knowledge and belief; the date the report was submitted; and the telephone number of the signer.

*h.* Such other schedules or reports as may be required, duly completed in all substantial respects on such forms and in accordance with instructions provided or approved by the department.

*i.* The amount of net remittance due. If the amount of net remittance due is less than $1, the employer need not submit payment. The system will compute and enter the net remittance due.

*j.* The total number of employees on the report, which will be computed and entered by the system.

This rule is intended to implement Iowa Code sections 96.1A(15), 96.7, 96.11(6), and 96.11(11).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.4(96) Reporting of earnings data by secure file transfer.**

**22.4(1)** An employer, agent, or third-party administrator may submit an electronic file. Authorization for this reporting method will be given if the submitting party meets the department's technical specifications, which will be furnished upon request.

**22.4(2)** The electronic file submitted must contain, for each reporting unit, all of the required employer information, wage information, and labor market information. Adjustments to prior submitted reports should be submitted electronically via the system application.

**22.4(3)** The director shall annually designate the number of wage lines per report that will require the report to be filed electronically.

This rule is intended to implement Iowa Code section 96.11(6)*"a."*

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.5(96) Filing of quarterly contribution and payroll by newly subject or covered employers.** Any employing unit that becomes an employer subject to this chapter within any calendar quarter other than by a voluntary election of the employing unit shall file contribution and payroll for each calendar quarter. Payroll includes all wages paid during the current quarter as well as separate quarterly reports for

wages paid in prior quarters of the same calendar year. The first quarterly reports are due on the last day of the calendar month following the close of the calendar quarter in which the employing unit becomes subject to the Act. Any employer filing a voluntary election for coverage must begin filing reports in the quarter the employer's election is effective.

This rule is intended to implement Iowa Code sections 96.7(1), 96.8(3), 96.14(1), and 96.14(2).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.6(96) Employer changing status, address or name required to file report.** Any employer that terminates business for any reason whatsoever; transfers or sells all or a substantial part of the assets of the organization, trade or business to another; or changes the trade name of such business or address thereof shall, within ten days, provide electronic notification to the department of such change, including the former name and address of the business; the new name, telephone number, and address; the name of any new owner; and the employer's own name, telephone number, and present address.

This rule is intended to implement Iowa Code sections 96.8(4) and 96.11.

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.7(96) Exempt employing units and exempt employment.**

**22.7(1)** The department may request, and the employing unit having workers performing services for the unit who the unit considers exempt from this Act may file, Form 68-0192, Questionnaire for Determining Status of Workers, along with supporting exhibits and documents to enable the department to determine whether an exemption exists.

**22.7(2)** Any employing unit exempt under this Act or for whom certain employment performed is not subject to contributions shall immediately notify the department of any changes that may impact the exemption, including the character of its organization, the purposes and manner of its operation, or the changed manner in which employment is performed.

**22.7(3)** The burden is on the employer to prove the exemption claimed.

This rule is intended to implement Iowa Code section 96.1A(16)*"f."*

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.8(96) Subject employers.**

**22.8(1)** Whenever an employing unit is in doubt as to whether or not an individual is an employee or is engaged in employment subject to the Act, the department may request and the employing unit shall submit Form 68-0192, Questionnaire for Determining Status of Workers.

**22.8(2)** The department will maintain a separate account for each employer and notify the employer of any status change. This notice will advise the employer of:

*a.* The effective subjectivity date.

*b.* The date of the determination.

*c.* The assigned industry code.

*d.* The section of the law under which the employer was found liable.

*e.* The federal identification number (if available).

*f.* The workforce development unemployment insurance account number.

*g.* The contribution rate for that year and preceding four years, if applicable.

*h.* Whether the account was new, reestablished or inactive.

**22.8(3)** An appeal of an employer liability determination may be perfected according to rules 871—23.52(96) through 871—23.56(96).

This rule is intended to implement Iowa Code section 96.7(4).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.9(96) Registration of employing units to determine liability.**

**22.9(1)** Each employing unit doing business in the state of Iowa, within 30 days of commencing business in the state in any manner whatsoever, whether by succession to a business already being operated, by starting a new business, or otherwise, shall inform the department and complete a registration.

**22.9(2)** The registration shall provide the department with the following:

*a.* The names and addresses of the owners of the business, or if a corporation, association, or joint stock company or limited liability company, the names and addresses of its officers or members.

*b.* The employing unit's principal place of business, the nature of its business, the number of individuals whom it customarily hires to perform services for it, the place or places where such services are performed, the time when such business was begun, the number of weeks in the year for which it is customary to operate such business, and such other information as may be required.

**22.9(3)** The employing unit must also file contribution and payroll for all reporting units, if applicable.

This rule is intended to implement Iowa Code section 96.11(1).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.10(96) Report of a partnership on change in partners.**

**22.10(1)** If a partnership alters its ownership structure and the Internal Revenue Service does not require the partnership to obtain a new federal identification number, the partnership has ten days to notify the department of the change. The department will subsequently update the partnership account to reflect this change.

**22.10(2)** If the Internal Revenue Service requires the partnership to obtain a new federal identification number, or if there has been a change of ownership as described in Iowa Code section 96.1A(16)*"b"* or rule 871—23.28(96), then the old partnership has ten days to electronically file the change of ownership with the department and to complete a registration.

This rule is intended to implement Iowa Code section 96.11(6).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.11(96) Employer account.**

**22.11(1)** An employer that has more than one establishment or business is considered to be one employing unit entitled to one account and a single experience rate. If an establishment or business owned by an employer is a separate legal entity in its own right (i.e., a subsidiary corporation), it will be considered to be a separate employer with its own experience rate. When an already covered employer acquires another establishment or business, the employer will have a separate account number with a separate experience rate for the acquired business only if that business retains its character as a separate legal entity. If the acquired business is merged with that of the employer so that they become a single legal entity under the law, the successor is not entitled to separate rates for each establishment or business.

**22.11(2)** Each employer shall report all wages paid and pay all contributions into the unemployment account maintained by the department. The title of the employer's account shall be the name of the employing unit and may contain its trade name. Where the employing unit is a fiduciary agent or legal representative, the title of the account will be the name of the fiduciary or legal representative and the official title.

**22.11(3)** The department shall assign each employer's account a number that may only be changed if the system of numbering accounts is changed.

**22.11(4)** As used in this rule, "establishment" means an economic unit, generally at a single physical location, where business is conducted, where services or industrial operations are performed, or from which employees are dispatched.

This rule is intended to implement Iowa Code sections 96.1A(15) and 96.7(2)*"a"*(1).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.12(96) Reporting units.** Any employer having two or more separate establishments will file those establishments as separate reporting units. Additionally, at the employer's discretion, the employer may establish reporting units to report according to function within the business. When filing employer's contribution and payroll, all reporting units will be submitted together unless the department authorizes otherwise. The submission is not complete until all reporting units are completed. It is the responsibility of the employer to maintain current status for the reporting units, and if any reporting units are deleted or added, the employer must notify the department within ten working days from the date of change.

This rule is intended to implement Iowa Code sections 96.1A(6) and 96.7(2)*"a."*

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.13(96) Procedure to be followed by an employer wishing to have an active reporting unit coded for notice of claim for unemployment benefit mailing.**

**22.13(1)** Any employing unit reporting under an assigned account and having one or more reporting units in the state may request a reporting unit number for the specific purpose of receiving a Notice of Claim Filing so that the employing unit may make a timely protest if the employment separation was for a disqualifiable reason. Those accounts so wishing may request that all unemployment insurance material other than the Notice of Claim Filing be sent to the home office or regional accounting office. All such requests must be from a responsible financial or operating officer of the firm and must indicate:

*a.* The full trade name and address of each location to be coded.

*b.* The full employer name and address of the home office or financial office where all unemployment insurance material other than the Notice of Claim Filing is to be sent.

**22.13(2)** Qualified personnel in the tax bureau may accept this information over the telephone provided that the employer makes known all of the above requested information and the person receiving this information notes the date it was received, the time it was received, who telephoned the information to the department, and the name and telephone number of a responsible party that can be contacted if further verification is needed with respect to the location coding procedure. Tax bureau personnel receiving this classified information by telephone will accordingly note this and make it a matter of permanent record.

This rule is intended to implement Iowa Code section 96.6(2).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.14(96) Notification by employer of employee's rights.** Notification is in accordance with Iowa Code section 96.11(2).

This rule is intended to implement Iowa Code section 96.11(2).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.15(96) 940 certification.**

**22.15(1)** Upon request, the department shall furnish to the Internal Revenue Service a certification of an employer's account for a particular year. Certification requests may be on an individual basis or may be part of a bulk yearly certification. Such certification will include the employer's state account number, yearly taxable payroll, contribution rate, contributions paid prior to January 31 of the next succeeding year, and the date and amount of contributions after January 31 of the next succeeding year.

**22.15(2)** In addition to the information certified in subrule 22.15(1), yearly certification shall include:

*a.* Employers that filed a federal unemployment tax return (Form 940) that did not file with the department.

*b.* Employers that filed returns with the department but not with the Internal Revenue Service, except governmental employers and employers that department records indicate to be 501(c)(3) nonprofit organizations.

This rule is intended to implement Iowa Code sections 96.11(1) and 96.11(6)*"c"*(2).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.16(96) Electronic transmittal of contribution payments.** Employing units must transmit payment of contributions to the department electronically.

This rule is intended to implement Iowa Code sections 96.7(1) and 96.14(2).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.17(96) Procedures of field auditors.**

**22.17(1)** Field auditors are to provide a cost-effective method of promoting employers' understanding of employer rights and responsibilities under Iowa unemployment insurance laws.

**22.17(2)** The department, through duly appointed field auditors, may examine an employer's records at any reasonable time to determine compliance with the Act.

**22.17(3)** The department has enforcement authority. An employer, when requested to produce records by an auditor, must make the records available. If an employer does not comply with the auditor's request to produce records, a subpoena duces tecum may be served on the employer.

**22.17(4)** The department, through duly appointed field auditors, may perform a systematic audit of an employer's records as authorized by Iowa Code section 96.11(7) and as mandated by the United States Department of Labor. In addition to the provisions of subrules 22.17(1) through 22.17(3), the following provisions apply to systematic audits:

*a.* The employer is to be given reasonable notice of the intent to audit, and a preaudit interview, typically in the form of a preaudit questionnaire, is to be conducted with the employer or a designated representative.

*b.* The records required, if maintained, may include individual pay records, Internal Revenue Service Forms W-2 and 1099, cash disbursement journals, check registers, general ledgers, balance sheets, profit and loss statements, federal and state tax returns, and other records to the extent they relate to possible hidden or misclassified wages.

*c.* To verify the existence of the business, the auditor may require a visit to the business premises or request other evidence of legitimate business activity.

*d.* To verify the correct business entity is listed on department files, the auditor may examine various employer business licenses, legal documents or other tax returns.

*e.* To verify the reporting of all workers reportable to the department under the Act, questionable entries will be investigated and documented. If the employer disagrees with the audit decision on coverage of a worker, the auditor may require the employer to complete Form 68-0192, Questionnaire for Determining Status of Workers. In any disputed case, the auditor is to be granted access to records as necessary to determine the remuneration paid for any given calendar quarter.

*f.* To verify proper employer posting to department reports, a detailed audit of check stubs or other maintained source documents will be made and documented for at least one worker for at least one quarter. The detailed audit may be more comprehensive at the discretion of the auditor or if discrepancies are found.

*g.* Employer records will be compared and reconciled to amounts reported to the department on contribution and payroll reports and audit findings documented.

*h.* Discrepancies will be resolved or explained, and report adjustments prepared, as necessary.

*i.* The audit will cover four calendar quarters; however, if material errors are found, the audit may be expanded to cover prior or subsequent years subject to limitations of subrule 22.1(1).

*j.* Additional amounts due will be calculated and collected, including applicable interest and penalties, or an explanation will be given.

*k.* Upon completion of the audit, the department will communicate the results to the employer or designated representative. An audit report with all worksheets, adjustments, and reports will be retained by the department.

**22.17(5)** There are several other reasons department representatives may make employer contacts and demands under authority of this rule. Any of these activities may be expanded into a systematic compliance audit as described in subrule 22.17(4) upon approval of the duly authorized representative of the department.

*a.* An auditor may request to examine business records to determine the date employment began and the date the employing unit became subject to the Act.

(1) To determine whether an employing unit is to be a covered employer and whether an individual, or class of individuals, is an employee whose remuneration would be subject to contributions, the auditor will examine employment contracts and related documents.

(2) If it is determined that the employing unit is to be a covered employer, the auditor will examine legal documents such as leases, purchase contracts, partnership agreements, articles of incorporation, limited liability operating agreements, and stock records to determine ownership of the business; to establish responsibility for filing reports and paying contributions; and to assist in the determination of the unemployment insurance tax rate.

(3) If liability is determined, the payroll/remuneration records may be examined to establish the correct amount of covered wages and the period to which they belong. Reports will be completed; the correct amount of contribution, penalty, and interest due will be computed; and collection action will be initiated.

*b.* When an unemployment insurance claim is filed, an auditor may request to examine the records of an employer to establish the claimant's rights to benefits under the Act. Form 68-0192, Questionnaire for Determining Status of Workers, and supporting documents may be required in contested cases. If the department determines that the claimant is an employee, the records will be examined to determine the correct amount of wages paid to the claimant and the period to which the wages apply.

*c.* When an employer fails or refuses to file contribution and payroll, the auditor may examine the records to determine the correct amount of wages that should be reported and may compute and collect contributions, penalty, and interest due. Should records not be made available, the auditor may estimate the wages paid and amounts due pursuant to 871—subrule 23.59(2).

*d.* When an employer is delinquent in paying contributions due, the auditor may examine records including cash accounts, accounts receivable, real and personal property accounts, accounts payable, notes payable, installment contracts, and mortgages payable to determine the employer's equity in the assets on which a lien may be filed and judgment obtained.

**22.17(6)** When a temporary writ of injunction has been filed by the department against an employer because of the employer's failure or refusal to file a required report or to pay assessed contributions, penalty, and interest, a field auditor may inspect the enjoined business premises during reasonable hours and interview any interested parties having knowledge of or being involved with the enjoined employer to ensure that such enjoined employer and all of the employer's agents, servants, employees, and assigns are observing the conditions of the temporary writ of injunction.

This rule is intended to implement Iowa Code sections 96.7(1), 96.7(3), 96.8(1), 96.11(1), 96.11(6) *"a,"* 96.11(7), 96.14, 96.16 and 96.20(3).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.18(96) Agents and other practitioners or firms representing employers in unemployment insurance matters.**

**22.18(1)** An agent, tax practitioner, accounting firm, attorney or any other firm or individual that represents or intervenes on behalf of an employer in any unemployment insurance matter must file with the department:

*a.* A power of attorney, or

*b.* A letter of authorization from the employer, or

*c.* An electronic designation of authority from the employer.

**22.18(2)** The foregoing documents must contain:

*a.* Employer's full legal name, address, and account number.

*b.* Employer doing business as (DBA) or trade name, if any.

*c.* Legal name, address, telephone number and federal employer identification number (FEIN) of the agent or firm representing the employer.

*d.* Employer's email address.

*e.* Address of the designated agent.

*f.* Roles that the agent or firm is authorized to perform for the employer.

*g.* Signature of the employer.

This rule is intended to implement Iowa Code section 96.11(7).

[**ARC 8360C**, IAB 11/13/24, effective 12/18/24]

**871—22.19(96) Notification of availability of unemployment insurance.** Upon an employee's separation from employment, an employer must provide to the employee documentation informing that:

**22.19(1)** Unemployment insurance benefits are available to workers who are unemployed and who meet the state's eligibility requirements;

**22.19(2)** Employees may file a claim in the first week that employment stops or work hours are reduced;

**22.19(3)** Employees may file claims online at iowaworks.gov; and

**22.19(4)** Employees must provide the department with the following information to process the claim:

*a.* Full legal name;

*b.* Social security number;
*c.* Authorization to work (if the employee is not a U.S. citizen or resident);
*d.* Last employer name and address;
*e.* Start and end dates of the employee's last employment; and
*f.* Additional information upon request of the department.

This rule is intended to implement Iowa Code chapter 96 and the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

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# CHAPTER 23
# EMPLOYER'S CONTRIBUTION AND CHARGES

[Prior to 9/24/86, Employment Security[370]]
[Prior to 3/12/97, Job Service Division [345] Ch 3]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

**871—23.1(96) Definitions.**

**23.1(1)** *Balancing account.* An account set up to receive benefit charges that by law are not chargeable to any employer. The purpose of the balancing account is to enable the department to properly account for all benefits paid out.

**23.1(2)** *Average annual taxable payroll.* See Iowa Code section 96.1A(2).

**23.1(3)** *Calendar quarter.* See Iowa Code section 96.1A(6).

**23.1(4)** *Computation date.* The date as of which employers' experience with respect to unemployment or unemployment risk is measured for the purpose of determining contribution rates.

**23.1(5)** *Employer's contribution and payroll report.* An employer's quarterly report of the wages paid to individual workers, the total and taxable wages paid and the amount of contributions due to a state unemployment insurance fund.

**23.1(6)** *Contributions.* See Iowa Code section 96.1A(8).

**23.1(7)** *Contributor rate.* The percent constituting the rate at which the employer's payroll is taxed.

**23.1(8)** *Employer.* See Iowa Code section 96.1A(14).

**23.1(9)** *Experience.* An employer's record with respect to contributions paid, benefits charged, and taxable wages reported.

**23.1(10)** *Experience rating.* A method for determining the contribution rates of individual employers on the basis of the factors specified in the state employment security law for measuring employers' experience with respect to unemployment or unemployment risk.

**23.1(11)** *Federal unemployment tax.* The tax imposed by the Federal Unemployment Tax Act on employers with respect to having individuals in their employ.

**23.1(12)** *Federal Unemployment Tax Act.* Subchapter C of Chapter 23 of the United States Internal Revenue Code which relates to the federal unemployment tax.

**23.1(13)** *Funds.*

*a. Administrative funds.* Funds made available from federal, state, local and other sources to meet the cost of state workforce development administration.

*b. Contingency fund.* An amount of money appropriated by Congress to meet certain unpredictable increases in costs of administration by the state workforce development divisions arising from increases in workload or other specified causes.

*c. Employment security administration fund.* See Iowa Code section 96.13(1).

*d. Special employment security contingency fund.* See Iowa Code section 96.13(3).

*e. Temporary emergency surcharge fund.* See Iowa Code section 96.7(11).

*f. Unemployment compensation fund.* See Iowa Code section 96.9.

*g. Unemployment trust fund.* See Iowa Code section 96.9(2).

**23.1(14)** *Indian tribe.* See Iowa Code section 96.1A(24).

**23.1(15)** *Liability determination.* See Iowa Code section 96.7(4).

**23.1(16)** *Subject employer.* An employing unit that is subject to the contribution provisions of a state employment security law.

**23.1(17)** *Quarterly wage report.* A report that generates after the employer has electronically submitted its quarterly contribution and payroll.

**23.1(18)** *Quarterly wage detail.* A report listing workers and their wages by social security number.

This rule is intended to implement Iowa Code sections 96.7(2)*"c"*(3), 96.7(7)*"b,"* and 96.11(1).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.2(96) Definition of wages for employment during a calendar quarter.** Unless the context otherwise requires, terms used in rules, forms, and other official pronouncements issued by the department have the following meaning:

**23.2(1)** Wages paid are wages paid to an individual during the calendar quarter. Wages earned but not paid during the calendar quarter are considered as wages for employment in the quarter paid. The employer's contribution and payroll is evidence of when the wages were paid. If the wages are not listed, they shall be considered as paid as of:

*a.* The date appearing on the check.

*b.* The date appearing on the notice of direct deposit.

*c.* The date the employee received the cash payment.

*d.* The date the employee received any other type of payment in lieu of cash.

**23.2(2)** Wages payable means wages earned and unpaid.

**23.2(3)** Remuneration paid in goods or services shall be computed on the basis of the fair value of the goods or services at the time of payment.

**23.2(4)** Cash value of room and board.

*a.* If board, rent, housing, lodging, meals, or similar advantage is extended in any medium other than cash as partial or entire remuneration for service constituting employment, the reasonable cash value of same shall be deemed wages subject to contribution.

*b.* Where the cash value for such board, rent, housing, lodging, meals, or similar advantage is agreed upon in any contract of hire, the amount so agreed upon shall be deemed the value of such board, rent, housing, lodging, meals or similar advantage. Check stubs, pay envelopes, contracts, and the like, furnished to employees setting forth such cash value, are acceptable evidence as to the amount of the cash value agreed upon in any contract of hire except as provided in paragraphs 23.2(4)*"d"* and *"e."*

*c.* In the absence of an agreement in a contract of hire, the rate for board, rent, housing, lodging, meals, or similar advantage, furnished in addition to money wages or wholly comprising the wages of an employed individual, shall be deemed to have not less than the following cash value except as provided in paragraph 23.2(4)*"d."*

| | |
|---|---|
| Full board and room per week | $300.00 |
| Meals (without lodging) per week | 100.00 |
| Meals (without lodging) per day | 20.20 |
| Lodging (without meals) per week | 198.00 |
| Lodging (without meals) per day | 40.00 |
| Individual meals: | |
| Breakfast | 4.50 |
| Lunch | 5.30 |
| Dinner | 10.50 |
| A meal not identifiable as breakfast, lunch or dinner | 4.50 |

*d.* The department or its authorized representative may, after affording reasonable opportunity at a hearing for the submission of relevant information in writing or in person, determine the reasonable cash value of such board, rent, housing, lodging, meals, or similar advantage in particular instances or group of instances, if it is determined that the values fixed in or arrived at in accordance with paragraph 23.2(4)*"c,"* or in the contract of hire do not properly reflect the reasonable cash value of such remuneration.

*e.* If the department determines that the reasonable cash value is other than prescribed in a contract of hire or in paragraph 23.2(4)*"c,"* the employer's quarterly payroll and contribution reports to the department shall thereafter show the value of such remuneration as determined by the department.

*f.* Notwithstanding the provisions of this paragraph, the cash value of meals that are provided by and for the convenience of the employer on the business premises of the employer shall not be deemed as insured wages under chapter 96 of the Iowa Employment Security Law. Lodging furnished by the employer, for the convenience and on the business premises of the employer, shall not be considered wages if the employee is required to accept the lodging as a condition of employment.

This rule is intended to implement Iowa Code section 96.1A(40).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.3(96) Wages.**

**23.3(1)** Wages are as defined in provided in Iowa Code section 96.1A(40), with the additional clarifications.

**23.3(2)** The term "wages" shall not include:

*a.* The amount of payment in addition to the employee's regular wages paid for the sole purpose of compensating the employee for expenses inherent in the performance of services away from the regular base of operation.

*b.* Amounts paid specifically for travel or other ordinary and necessary expenses incurred or reasonably expected to be incurred in the employer's business are not wages. Travel and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts if both wages and expense allowances are combined in a single payment.

*c.* Cash payments, or the cash value of other remuneration, made voluntarily and without contractual obligation to, or in behalf of, an individual for periods during which such individual is in active service or training as a member of the national guard, or the military or naval forces of the United States, including the organized reserves.

*d.* Sick pay.

(1) "Wages" shall not include any amounts paid as sick pay if the payments are made by or on behalf of an employer under a plan or system. The plan or system must provide sick pay for the employees of the employer or a class or classes of the employer's employees. The plan may include dependents.

(2) In the absence of a plan or system providing sick pay, any amounts paid by or on behalf of an employer on account of sickness are not included after the expiration of six calendar months following the last calendar month in which the employee worked for such employer.

*e.* The amount of any payment by an employing unit for or on behalf of an individual in its employ, under a supplemental unemployment benefit plan established by such employing unit, with approval of the department. Such plan or system must make provision for payment to a trust fund or similar account on behalf of individuals performing services for it. The account must be used to pay supplemental unemployment benefits to such employing unit's employees over and above any sum to which such employees might be entitled under the provisions of the state employment security law. Such payments to employees are not remuneration for the purposes of reducing or preventing payment of unemployment benefits. Such plan shall contain the following features:

(1) The employer pays into a separately established trust fund or similar account an amount per hour (or equivalent) worked by the employees covered by the agreement until the maximum amount called for has been reached. The plan specifically provides for the supplementation of unemployment benefits under the written terms of an agreement, contract, trust arrangement, or other instrument.

(2) These payments made by the employer into the trust fund or similar account are not subject to recovery by the employer before the satisfaction of all liabilities to employees covered by the plan.

(3) The trust fund or similar account is to be used to pay supplemental unemployment benefits to employees over and above any sum to which they might be entitled under the provisions of a state employment security law.

(4) That the agreement provides that such employee is not entitled to receive any payment from the trust fund or similar account unless the employee is also concurrently eligible for benefits under a state employment security law.

(5) The plan requires that benefits are to be determined according to objective standards. Thus, a plan may provide similarly situated employees with benefits that differ in kind and amount but will not permit such benefits to be determined solely at the discretion of the administrator of the fund.

(6) That the employee has no vested right in any of the moneys paid into the trust fund or similar account except as the employee may qualify for benefits under the terms of the agreement.

(7) That any payment made to or on behalf of an employee be from and to a trust fund or similar account described in Section 401(a) of the United States Internal Revenue Code Title 26 of 1970, which is exempt from tax under Section 501(a) of said Code.

(8) An employer seeking approval of a supplemental unemployment benefit (SUB) plan should petition the department in the manner provided for petitioning for a declaratory ruling. The employer should include a written copy of its plan in the petition for declaratory ruling.

*f.* Remuneration paid to an officer of corporation if such officer is a majority stockholder:

(1) Unless such services are subject to a tax to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or

(2) If such services are required to be covered under this chapter as a condition to receiving a full tax credit against the tax imposed by the Federal Unemployment Tax Act (FUTA) (26 U.S.C. 3301-3309).

*g.* Remuneration paid by this state or any of its political subdivisions or by an Indian tribe to:

(1) An elected official,

(2) A member of a legislative body,

(3) A member of the judiciary of a state or political subdivision,

(4) A member of the state national guard or air national guard,

(5) An employee serving on a temporary duty basis for fire, storm, snow, earthquake, flood, or similar emergency, or

(6) A person serving in a nontenured policymaking capacity or advisory capacity pursuant to state law that ordinarily does not require duties of more than eight hours per week.

*h.* The term "wages" shall not include:

(1) Any amount of personal compensation withdrawn by a bona fide sole proprietor from the business or profession.

(2) Any amount of personal compensation withdrawn by a bona fide partner or partners from their partnership entity.

(3) Remuneration for services that are paid by a limited partnership to a limited partner is reportable. If a limited partner performs the duties of a general partner, remuneration is considered to be exempt.

*i.* Payments made by an employer to a deferred compensation plan, established to provide for an employee's retirement, are not wages subject to contributions unless the payments were deducted from the employee's pay through a salary reduction agreement. In circumstances where both the employer and the employee contribute to the plan, the employer's share is not wages unless the employee would receive a cash payment if the employee chose not to participate in the plan.

*j.* Remuneration paid to members of limited liability companies based on membership interest—see Iowa Code section 96.1A(19)*"a"*(9) and 96.1A(40)*"b"*(5).

*k.* Remuneration paid for services performed by an inmate of a correctional institution. Persons in work release programs are considered inmates, and their wages are not reportable. Remuneration paid to residents of halfway houses is reportable.

**23.3(3)** The term "wages" shall include:

*a. Small business corporation remuneration.* Remuneration paid to officers of "subchapter S" corporations for services performed in Iowa shall be deemed to be wages. Any corporate dividends must be approved and recorded in the corporate minutes prior to payment of such dividends. Remuneration to shareholders shall not be deemed to be dividends if such remuneration is paid regularly, either weekly or monthly, and is not in proportion to such shareholder's amount of stock, or in proportion to such shareholder's investment in the corporation. Corporate dividends are not considered wages. Ordinary income distributions as reported on IRS Form K-1 will not be considered to be wages provided that distributions are made proportionate to stock ownership or shareholder's investment and provided that corporate officers performing services for the corporation have received appropriate remuneration for services performed as defined by the Internal Revenue Service and the remuneration is reported as wages. Paragraph 23.3(2)*"f"* describes possible exclusion of wages paid to corporate officers who are majority stockholders.

*b. Wages of employees hired with equipment.* Where an employee is hired with equipment, except where it is ordinary in custom and usage in the trade or business for employees to furnish such equipment at their own expense, the fair value of the remuneration for the employee's services, if specified in the contract of hire, shall be considered wages. If the contract of hire does not specify the employee's wages, or the value of the wages agreed upon under the contract of hire is not a fair value, the department shall

determine the employee's wages, taking into consideration the prevailing wages for similar work under comparable conditions, and the wages thus determined shall apply as wages and be so reported by the employer.

*c. Union members.* Members of a union, subject to the direction and control of the union and acting on behalf of the union, are considered employees of the union with respect to the services performed. Payments made to them by the union as reimbursement for time lost from their regular employment are considered wages.

*d. Cafeteria plans.* A cafeteria plan is a set of benefit options offered by the employer to employees or to a class of employees. A particular benefit in a cafeteria plan will be considered to be "wages" subject to contributions (tax) for Iowa unemployment insurance purposes if the employee has the option of receiving a cash payment in lieu of the benefit. If the employee does not have the option of receiving a cash payment, the benefit will still be considered "wages" subject to contributions unless the benefit is specifically excluded from the definition of "wages" in Iowa Code section 96.1A(40).

*e. Personal use of company vehicle.* The cash value of personal use of a company automobile or other vehicle is "wages" subject to contributions (tax) for Iowa unemployment insurance purposes and shall be reported to the department as wages paid in the quarter in which the personal use occurred.

This rule is intended to implement Iowa Code sections 96.5(5)*"a"* and 96.1A(40).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.4(96) Wages—back pay.** A payment in the form of or in lieu of back pay to an individual (exclusive of legal fees and other litigation expenses) shall be reported by the employer as total and taxable wages paid to the individual in the quarter in which the employer actually made the payment in the form of or in lieu of back pay. A payment for back pay is taxable and recoverable if it meets the definition of wages. Punitive or liquidated damages for other than lost wages, and job search expenses, are not taxable, recoverable or deductible as a back pay award.

**23.4(1)** Where the back pay wages, award or a judgment are paid as remuneration for employment by an employer into an account for an individual, the amount is considered as wages paid in the quarter in which the employer or appointed party actually pays the amount to the individual.

**23.4(2)** Where the department, individual, and employer agree that the employer may remit to the department amounts to repay a benefit overpayment resulting from receipt of back pay, the employer is required to report this amount to the department as total and taxable wages paid to the individual in the calendar quarter in which the amount is actually paid.

This rule is intended to implement Iowa Code section 96.3(8).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.5(96) Gratuities and tips.**

**23.5(1)** Tips received by an individual from a person or persons other than the individual's employer, and not accounted for to the employer, are not wages unless required by subrule 23.5(2). If the employee makes an accounting to the employer listing the tips received, these tips must be reported to the department as total and taxable wages. Where the customer writes the amount of the tip on a bill and the employer pays the employee the amount so shown and charges it to the customer's account, such amounts are wages.

**23.5(2)** Tips are considered reportable and taxable as wages when taken into account by the employer in determining the employee's compensation under the federal wage and hour law, when paid by the customer as a service charge set by the employer, or when pooled and distributed to the employees by the employer. The employer shall keep sufficient detailed records so that it can be ascertained, if necessary, by audit or other authorized inspection which compensation is reportable as taxable tips and which compensation is reportable as compensation other than tips. For reporting purposes to the department, the tips and other reportable and taxable compensation may be submitted in aggregate on Form 65-5300, Employer's Contribution and Payroll Report.

**23.5(3)** An accounting as used in this rule means the reporting of tips as gratuities by an employee to the employer for the purpose of deducting social security taxes or withholding taxes with the employer reporting the same on Form 941, Employer's Quarterly Federal Tax Return.

This rule is intended to implement Iowa Code section 96.1A(40).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.6(96) Taxable wages.**

**23.6(1)** If an individual has more than one employer, each employer must pay contributions on the employee's wages up to the taxable wage base.

**23.6(2)** The employer may not deduct any part of the contributions due on taxable wages from an employee's pay.

**23.6(3)** Only wages reported to the Iowa unemployment insurance program may be used in computing the employee's reportable taxable wages in Iowa.

**23.6(4)** A successor employer may use the taxable wages paid and reported by the predecessor employer to determine the successor employer's taxable wages if the successor employer received a transfer of experience from the predecessor employer.

**23.6(5)** A successor employer that received a transfer of experience may, at the successor employer's option, use the taxable wages reported by the predecessor to compute the taxable wages for the balance of the calendar year or may compute the taxable wages as if the employees acquired from the predecessor were new employees.

This rule is intended to implement Iowa Code section 96.1A(36).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.7(96) New employer contribution rates.**

**23.7(1)** The term contributory employer excludes reimbursable employers but includes employers with a "zero" rate.

**23.7(2)** For the purposes of this rule, an administrative contribution surcharge and a temporary emergency surcharge may be added to an employer's contribution rate.

**23.7(3)** For the purposes of this rule, the first quarter in which an employer's account will be considered chargeable with benefits will be the third quarter of the employer's liability unless the employer paid and reported no wages during the first two quarters of liability. In that case, the employer will not be considered chargeable with benefits until the first quarter in which the employer pays and reports wages. Once an employer's account has been chargeable with benefits, it will be considered chargeable for rate computation purposes until it is terminated.

**23.7(4)** For the purposes of this rule, any single employer that has two or more establishments or businesses engaged in different industrial classification activities, with one or more establishments or businesses engaged in construction activity as defined in rule 871—23.82(96), will be assigned the contribution rate applicable to construction if 50 percent or more of the combined business activity is derived from the establishments or businesses engaged in construction activities.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.8(96) Due date of quarterly contribution and payroll.**

**23.8(1)** *Due date.* All covered employers subject to Iowa Code section 96.7 shall file with the department quarterly contribution and payroll reports on or before the due date, and any employer failing to file a quarterly when due shall be considered delinquent.

*a.* Contributions are due quarterly on the last day of the month following the calendar quarter for which the contributions have accrued. The first payment of all employers becoming liable during a calendar year unless otherwise noted shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

*b.* If any due date listed in this rule falls on a Saturday, Sunday, or legal holiday, the due date is the next following business day. Quarterly wage detail, contributions, and payments in lieu of contributions, if mailed, shall be considered as received on the date shown on the postmark of the envelope in which they are received by the department.

**23.8(2)** *Due date for new employer.* The first contribution payment of any employer who becomes newly liable for contributions in any year are due on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of one or more

workers were employed on any one day, or the last day of the month following that calendar quarter in which the first dollar in Iowa wages has been paid.

*a.* The first contribution payment of any agricultural employer who becomes newly liable for contributions in any year will become due on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of ten or more workers were employed on any one day, or the last day of the month following that calendar quarter in which a total of $20,000 in wages was paid.

*b.* The first contribution payment of any domestic employer who becomes newly liable for contributions in any year will become due and payable on the last day of the month following that quarter wherein the liability was established, or the last day of the month following that calendar quarter in which a total of $1,000 in wages was paid.

**23.8(3)** *Due date for elective coverage.* The first contribution payment of any employing unit that elects with the written approval of such election by the department to become an employer, or to have nonsubject services performed for it deemed employment, is due on the last day of the month next following the close of the calendar quarter in which the conditions of becoming an employer by election are satisfied, and includes contributions with respect to all wages paid for employment occurring on and after the date stated in such approval (as of which such employing unit becomes an employer), up to and including the calendar quarter in which the conditions of becoming an employer by election are satisfied.

**23.8(4)** *Due date for newly liable employer.* The first contribution payment of an employer who becomes newly liable for contributions in any year in any other manner is due on the last day of the month next following the quarter wherein such individual or employing unit became an employer.

**23.8(5)** *Delinquent date and penalty and interest.*

*a.* A quarterly wage detail or contribution payment or payment in lieu of contributions that is not received on or before the due date is delinquent. An employer who fails to timely file quarterly contribution and payroll is liable to the department, for each such delinquent quarter, subject to waiver for good cause shown, a penalty as provided in Iowa Code section 96.14(2). No penalty will apply to delinquent quarters when the employer proves to the satisfaction of the department that no wages were paid.

*b.* An employer who has not paid contributions or payments in lieu of contributions on or before the due date shall pay interest on the delinquent contribution at the rate of 1 percent per month, or 1/30 of 1 percent for each day or fraction thereof, from and after the due date until payment is received by the department unless good cause is shown why such interest shall be waived.

**23.8(6)** *Due date upon demand.* If the department finds that the collection of any contribution or payment in lieu of contributions will be jeopardized by delaying the collection thereof until the date otherwise described, upon written demand by the department, such contribution or payment in lieu of contribution shall become immediately due and delinquent.

**23.8(7)** *Extension of time.* Upon written request filed with the department before the due date of any contribution and payroll, the department may, for good cause shown, grant an extension in writing of the time for filing and the payment of the contributions, but no extension may exceed 30 days and no extension may postpone payment beyond the last day for filing tax returns under the Federal Unemployment Tax Act. If an employer who has been granted an extension fails to pay the contribution on or before the termination of the period of such extension, interest shall be payable from the original due date as if no extension had been granted.

This rule is intended to implement Iowa Code section 96.7(1).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.9(96) Delinquency notice.** If an employer has not submitted its quarterly contribution and payroll with 20 days of the due date, IWD will issue, via mail or email to the address on file, a delinquency notice stating the employer's name, account number, and experience rate and the quarter for which contribution and payroll is delinquent. If the employer has sold or dissolved the business, the employer is required to show the date of the last wages paid and the date of last employment. If the business was sold or transferred, the employer is required to provide the name and address of the successor and the employer's future mailing address.

This rule is intended to implement Iowa Code section 96.7(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.10(96) Payments in lieu of contributions.**

**23.10(1)** An employer who has qualified for reimbursement payments or has had an election to become a reimbursable employer approved shall pay to the department an amount equal to the amount of regular or extended benefits paid, including benefits that are based on wage credits transferred from another employer. If extended benefits are in effect, employers shall reimburse one-half of the extended benefits paid, except governmental employers and Indian tribes shall reimburse all extended benefits paid.

**23.10(2)** At the end of each calendar quarter, the department shall bill each reimbursable employer via a statement sent within 30 days of the quarter for which the benefits are charged. The statement will include the social security number, name of claimant and amount of benefits charged to the employer for each claimant as well as the amount of any previous amounts due. Payment for each quarter's charges is due within 30 days of the issuance of the statement. If the employer fails to reimburse the department within the period prescribed by these rules, the department may attempt collection of the amount due including any of the following methods:

*a.* Issuance of Notice of Jeopardy Assessment and Demand for Payment.

*b.* Issuance of Notice of Lien.

*c.* Any other actions as prescribed by the law or these rules, including collection by distress warrant.

Interest on delinquent reimbursable benefits is charged at the rate of 1 percent per month or 1/30 of 1 percent per day from the date payment was due until the date of payment.

This rule is intended to implement Iowa Code section 96.7(8).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.11(96) Identification of workers covered by the Iowa employment security law.**

**23.11(1)** Each employer shall obtain the social security number of each of its employees subject to the Iowa employment security law.

**23.11(2)** An employer shall report the worker's social security number in making any report required by the department with respect to the worker.

**23.11(3)** If a worker failed to report to the employer a correct social security number or fails to show the employer a receipt issued by an office of the social security board acknowledging that the worker has filed an application for an account number, the employer shall inform the worker that Regulation 106 of the Internal Revenue Service, United States Treasury Department, under the United States Federal Insurance Contributions Act provides that:

*a.* Each worker shall report to every employer for whom the worker is engaged in employment a social security number with the worker's name exactly as shown on the social security card issued to the worker by the social security board.

*b.* Each worker who has not secured a social security number shall file an application for a social security account number on Form SS-5 of the Treasury Department, Internal Revenue Service. The application shall be filed on or before the seventh day after the date on which the worker first performs employment for wages, except that the application shall be filed on or before the date the worker leaves employment if such date precedes such seventh day.

*c.* If, within 14 days after the date on which the worker first performs employment for wages for the employer, or on the day on which the worker leaves the employ of the employer, whichever is the earlier, the worker does not have a social security account number, and has not shown the employer a receipt issued to the worker by an office of the social security board acknowledging that the worker has filed an application for an account number, the worker shall furnish the employer an application on Form SS-5, completely filled in and signed by the worker. If a copy of Form SS-5 is not available, the worker shall furnish the employer a written statement, signed by the worker, of the date of the statement, the worker's full name, present address, date and place of birth, father's full name, mother's full name before marriage, and worker's sex, and a statement as to whether the worker had previously filed an application on Form SS-5 and, if so, the date and place of such filing. Furnishing the employer with an executed Form SS-5, or statement in lieu thereof, does not relieve the worker of the obligation to make an application on Form SS-5 as required in paragraph 23.11(3)*"b."*

This rule is intended to implement Iowa Code section 96.7.
[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.12** Reserved.

**871—23.13(96) Employer elections to cover multistate workers.**

**23.13(1)** *Arrangement.* The following rule governs the department's administrative cooperation with other states subscribing to the interstate reciprocal coverage arrangement, hereinafter referred to as the arrangement. Unless and until the department approves the arrangement via the Employer's Election to Cover Multi-State Worker form or an accepted and approved form from another jurisdiction, employers are subject to localization of employment (rule 871—23.24(96)).

**23.13(2)** *Definitions.* As used in this rule unless the context clearly indicates otherwise:

*"Agency"* means any officer, board, department, division, commission or other authority charged with the administration of the unemployment compensation law of a participating jurisdiction.

*"Interested jurisdiction"* means any participating jurisdiction to which an election submitted under this rule is sent for its approval, and "interested agency" means the agency of such jurisdiction.

*"Jurisdiction"* means any state of the United States, the District of Columbia, Puerto Rico, or, with respect to the federal government, the coverage of any federal unemployment compensation law.

*"Participating jurisdiction"* means a jurisdiction whose administrative agency has subscribed to the arrangement and whose adherence thereto has not terminated.

**23.13(3)** *Submission and approval of coverage elections under the interstate reciprocal coverage arrangement.*

*a.* Any employing unit may file an election to cover under the law of a single participating jurisdiction all of the services performed for the employing unit by any individual who customarily works for the employing unit in more than one participating jurisdiction. Such an election may be filed, with respect to an individual, with any participating jurisdiction in which:

(1) Any part of the individual's services are performed;

(2) The individual resides; or

(3) The employing unit maintains a place of business to which the individual's services bear a reasonable relation.

*b.* The agency of the elected jurisdiction (thus selected and determined) shall initially approve or disapprove the election. If such agency approves the election, it shall forward a copy thereof to the agency of each other participating jurisdiction specified thereon, under whose unemployment compensation law the individual or individuals in question might, in the absence of such election, be covered. Each such interested agency shall approve or disapprove the election, as promptly as practicable, and notify the agency of the elected jurisdiction accordingly. In case its law so requires, any such interested agency may, before taking such action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of and have acquiesced in the election.

*c.* If the agency of the elected jurisdiction, or the agency of any interested jurisdiction, disapproves the election, the disapproving agency shall notify the elected jurisdiction and the electing employing unit of its action and of its reasons therefor.

*d.* Such an election is effective as to the elected jurisdiction only if approved by its agency and by one or more interested agencies. An election thus approved is effective, as to any interested agency, only if it is approved by such agency.

*e.* In case any such election is approved only in part, or is disapproved by some of such agencies, the electing employing unit may withdraw its election within ten days after being notified of such action.

**23.13(4)** *Effective period of election.*

*a. Commencement.* An election duly approved under this rule shall become effective at the beginning of the calendar quarter in which the election was submitted unless the election, as approved, specifies the beginning of a different calendar quarter. If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, such earlier date may be approved solely as to those interested jurisdictions in which the employer had no liability to pay contributions for the earlier period in question.

*b. Termination.*

(1) The application of an election to any individual under this rule shall terminate if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed so that they are no longer customarily performed in more than one particular jurisdiction. Such termination becomes effective as of the close of the calendar quarter in which notice of such findings is mailed to all parties affected.

(2) Except as provided in subparagraph 23.13(4)*"b"*(1), each election approved hereunder remains in effect through the close of the calendar year in which it is submitted and thereafter until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies.

(3) Whenever an election under this rule ceases to apply to any individual, under subparagraph 23.13(4)*"b"*(1) or 23.13(4)*"b"*(2), the electing unit shall notify the affected individual accordingly.

**23.13(5)** *Reports and notices by the electing unit.*

*a.* The electing unit shall promptly notify each individual affected by its approved election and furnish the elected agency a copy of such notice.

*b.* Whenever an individual covered by an election under this rule is separated from employment, the electing unit shall again notify the individual forthwith as to the jurisdiction under whose unemployment compensation law the individual's services have been covered. If at the time of termination the individual is not located in the elected jurisdiction, the electing unit shall notify the individual as to the procedure for filing interstate benefit claims.

*c.* The electing unit shall immediately report to the elected jurisdiction any change that occurs in the conditions of employment pertinent to its election, such as cases where an individual's services for the employer cease to be customarily performed in more than one participating jurisdiction or where a change in the work assigned to an individual requires such individual to perform services in a new participating jurisdiction.

This rule is intended to implement Iowa Code section 96.20.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.14(96) Elective coverage of excluded services.** An employing unit having services performed for it that are not subject to the compulsory coverage provisions of the Act may file an application for voluntary election to become an employer under the law or to extend its coverage to individuals performing services that do not constitute employment as defined in the law.

**23.14(1)** In no case shall an elective coverage agreement under Iowa Code section 96.8(3) be approved unless and until it has been established that the employing unit making application for elective coverage is normally and continuously engaged in a regular trade, business or occupation.

**23.14(2)** An application for elective coverage shall be disapproved if the department finds that the employing unit at the time of making the application was insolvent or expected to discontinue business for any reason within one year from the date the application is filed, or that the employing unit is not normally and continuously engaged in a regular trade, business or occupation.

**23.14(3)** The department may, on its own motion, request a written statement as to why an employing unit wishes to file an election to become a subject employer as provided for in Iowa Code section 96.8(3) *"a"* and may request evidence of financial stability.

**23.14(4)** Any written election for a period prior to the date of filing shall become binding upon approval by the department, and notification of the approval shall be forwarded to the employer. If for any reason the department does not approve such voluntary election, the employing unit shall be notified of the reasons why such approval was withheld.

**23.14(5)** The effective date of the voluntary election is the date on which the individual or individuals with noncovered wages first elect to have covered wages.

**23.14(6)** Effect of election approval. The first contribution payment of any employing unit that elects to become a covered employer shall become due and shall be paid on or before the due date of the reporting period during which the conditions of becoming a covered employer by election are satisfied, and shall include employer contributions with respect to all wages paid on and after the date stated in such approval (as of which such employing unit becomes a covered employer), up to and including the last pay period in the reporting period in which the conditions of becoming a covered employer by election are satisfied.

This rule is intended to implement Iowa Code section 96.8(3).
[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.15** to **23.17** Reserved.

**871—23.18(96) Nature of relationship between employer-employee.**

**23.18(1)** *Commission salespersons and insurance solicitors.* Commission salespersons are considered employees and wages are subject to unemployment tax unless there is a department-approved independent contractor agreement in place.

**23.18(2)** *Directors and officers of a corporation.* Directors who receive a reasonable fee for attending meetings and who perform no other services are not employees of the corporation. Officers of associations and corporations who perform services for the associations or corporations are employees.

**23.18(3)** *Members of family.*

*a.* Services performed by an individual in the employ of a son, daughter, or spouse, and services performed by a child under the age of 18 in the employ of a father or mother are exempt from the provisions of this chapter.

*b.* Services performed by a foster parent in the employ of a foster child, by a stepparent in the employ of a stepchild, and by a child under the age of 18 years in the employ of a stepparent or foster parents are exempt from the provisions of this chapter.

*c.* Services performed by a son or daughter over the age of 18 as an approved provider for consumer-directed care in the employ of a father or mother who is an approved consumer of a home- and community-based waiver services program are exempt from the provisions of Iowa Code chapter 96.

**23.18(4)** *Aliens.* This chapter makes no distinction between citizens and lawful aliens. Lawful aliens in nonexempt employment are counted in determining whether the employer is subject to the Act and are covered by the contribution and benefit provision.

**23.18(5)** *Aged and minor employees.* Contributions are payable upon services rendered by an employee regardless of the age of the employee.

**23.18(6)** *Family employment.* Parents, spouse and minor children under the age of 18 years working for an individual proprietor are exempt from the provisions of this chapter. If such individuals are employed by a partnership, the exemption only applies if such a relationship exists between the worker and each member of the partnership. This exemption is not applicable to corporations or to limited liability companies.

**23.18(7)** *Partners.* Bona fide partners are not considered employees even though they receive salaries.

**23.18(8)** *Apprentices-clerks.* This chapter makes no exceptions for persons serving a clerkship or other form of apprenticeship.

**23.18(9)** *Members of a limited liability company.* Members of a limited liability company that perform services other than for the purpose of acquiring membership in the limited liability company are employees.

This rule is intended to implement Iowa Code section 96.1A(16).
[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.19(96) Employer-employee and independent contractor relationship.**

**23.19(1)** The relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. An employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. It is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if the employer has the right to do so. The right to discharge or terminate a relationship is also an important factor indicating that the person possessing that right is an employer. Where such discharge or termination will constitute a breach of contract and the discharging person may be liable for damages, the circumstances indicate a relationship of independent contractor. Other factors characteristic of an employer, but not necessarily present in every case, are the

furnishing of tools, equipment, material and a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, that individual is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common law rules.

**23.19(2)** The nature of the contract undertaken by one for the performance of a certain type, kind, or piece of work at a fixed price is a factor to be considered in determining the status of an independent contractor. In general, employees perform the work continuously and primarily their labor is purchased, whereas the independent contractor undertakes the performance of a specific job. Independent contractors follow a distinct trade, occupation, business, or profession in which they offer their services to the public to be performed without the control of those seeking the benefit of their training or experience.

**23.19(3)** Independent contractors can make a profit or loss. They are more likely to have unreimbursed expenses than employees and to have fixed, ongoing costs regardless of whether work is currently being performed. Independent contractors often have significant investment in real or personal property that they use in performing services for someone else.

**23.19(4)** Employees are usually paid a fixed wage computed on a weekly, hourly or piece basis while an independent contractor is usually paid one sum for the entire work, whether it be paid in the form of a lump sum or installments. The employer-employee relationship may exist regardless of the form, measurement, designation or manner of remuneration.

**23.19(5)** The right to employ assistants with the exclusive right to supervise their activity and completely delegate the work is an indication of an independent contractor relationship.

**23.19(6)** Services performed by an individual for remuneration are presumed to be employment unless and until it is shown to the satisfaction of the department that the individual is in fact an independent contractor. Whether the relationship of employer and employee exists under the usual common law rules will be determined upon an examination of the particular facts of each case.

**23.19(7)** If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor, or the like.

**23.19(8)** All classes or grades of employees are included within the relationship of employer and employee. For example, superintendents, managers and other supervisory personnel are employees.

This rule is intended to implement Iowa Code section 96.1A(16).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.20(96) Employment—student and spouse of student.** Wages earned by a student who performs services in the employ of a school, college or university at which the student is enrolled and is regularly attending classes (either on a full-time or part-time basis) are not covered wages.

Wages earned by an individual who is a full-time employee for a school, college or university whose academic pursuit is unrelated to the full-time employment are covered wages.

Wages earned by the spouse of such a student in employment with the educational institution attended by the student are not covered wages if the employee-spouse is told prior to starting employment that the work is part of a program to provide financial assistance to the student and is not covered by unemployment insurance.

This rule is intended to implement Iowa Code section 96.1A(16)*"g"*(6).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.21(96) Excluded employment—student.** Wages earned by a student who is enrolled at a nonprofit or public educational institution under a program taken for credit that combines academic instruction with work experience are normally excluded from the definition of employment, provided that no work performed by such individual in excess of the hours called for in the contract between the school and the employer or performed in a period of time during which the institution is on a regularly scheduled vacation and for which such student receives no academic credit shall be excluded from said definition.

This rule is intended to implement Iowa Code section 96.1A(16)*"g"*(6).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.22(96) Employees of contractors and subcontractors.**

**23.22(1)** If one employer contracts with another employing unit for any work that is part of the first employer's usual business, the first employer is liable for any contributions based on wages paid by the second employing unit in connection with the work if the second employing unit is not liable to pay contributions.

**23.22(2)** Employees of the second contractor are counted as employees of the first contractor while performing services on the contract for the first contractor.

This rule is intended to implement Iowa Code section 96.1A(15).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.23(96) Liability of affiliated employing units.** A nonliable employer shall be liable if the employer owns one or more employing units (or business units) and the combined employment has paid wages for service in employment in a calendar quarter in either the current or preceding year.

This rule is intended to implement Iowa Code section 96.1A(15).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.24(96) Localization of employment—employees covered—exemption.** When workers perform services in more than one state, the department will review each case individually and make a determination whether wages are reportable to Iowa based on the following guidelines in sequence:

**23.24(1)** Services performed in only one state are considered localized in that state regardless of where the employer is located. The services do not have to cover the entire reporting period. The wages are reportable to the state where the services are performed.

**23.24(2)** Where services are performed among two or more states in a reporting period, the base of operations is considered. The base of operations is the point from which the workers start and finish their work on a regular basis, and that is the state to which the wages are reportable. In this type of case, the department has the right to waive Iowa coverage to another jurisdiction (state of the base of operations) as long as the employee is properly covered by the other state.

**23.24(3)** When workers perform services in more than one state and there is no base of operations in any one state, the state from which the worker is immediately directed and controlled is the state to which the wages are reportable provided that some services are performed by the worker in that state.

**23.24(4)** If the services of the workers are not localized in a state, the base of operations is not involved or the place where services are directed and controlled is not applicable, then the wages are reportable to the state in which the worker resides, provided some services are performed in that state.

This rule is intended to implement Iowa Code section 96.1A(16)*"b."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.25(96) Domestic service.**

**23.25(1)** Services of a household nature performed by an individual in or about the private home of the person by whom the individual is employed or performed in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority by which the individual is employed are included within the term "domestic service."

**23.25(2)** A private home is the fixed place of abode or residence of an individual or family, including the house and the lands on which the house stands.

**23.25(3)** Services of a general household nature are those ordinarily and customarily performed as an integral part of the upkeep operation and maintenance of a dwelling, residence or private home. In general, covered services of a household nature in or about a private home include services rendered by workers such as cleaning persons, cooks, maids, housekeepers, caretakers, yard workers and similar domestic workers. In addition, services performed by babysitters, nannies, health aides and similar workers for members of the household are covered.

**23.25(4)** The services enumerated above are not covered under the term "domestic service" if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, offices or other commercial enterprises.

**23.25(5)** The term "domestic service" does not include the service of an individual engaged in recognized independent craft not habitually rendered as a part of ordinary household duties. In situations where it may be necessary to determine whether or not an employer-employee relationship exists between the householder and the household worker, the guidelines as set forth in rule 871—23.19(96) will be applied.

**23.25(6)** Services of a household nature performed in or about the club rooms or house of a local college club, or in or about the club rooms or house of a local chapter of a college fraternity or sorority, by a student who is enrolled and regularly attending classes at a school, college, or university are excepted from employment. For the purpose of this exception, the statutory tests are the type of services performed by the employee, the character of the place where the services are performed, and the status of the employee as a student enrolled and regularly attending classes at a school, college, or university where the term "school, college, or university" is taken in its commonly or generally accepted sense.

**23.25(7)** In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include but are not limited to services rendered by cooks, janitors, laundry persons, furnace persons, handy persons, gardeners and housekeepers.

**23.25(8)** A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter. If the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for the purpose of supplying board or lodging to students or the public as a business enterprise, the services performed there are not covered under the term "domestic service."

**23.25(9)** Where an individual is employed by a domestic service or home health care organization to perform domestic services in a private home, the individual is an employee of the service firm, not the householder.

This rule is intended to implement Iowa Code section 96.1A(11) and 96.1A(14)*"m."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.26(96) Definition of a farm—agricultural labor.**

**23.26(1)** "Farm" as used in Iowa Code section 96.1A(16)*"g"*(3) and in these rules means one or more plots of land not necessarily contiguous, including structures and buildings, used either primarily for raising or harvesting any agricultural or horticultural commodity, including caring for and the raising, shearing, feeding, training, and management of livestock, bees, poultry and furbearing animals and wildlife or both such uses, if the activities conducted have an agricultural purpose.

**23.26(2)** The definition of farm in subrule 23.26(1) includes but is not limited to nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities. A plot of land used primarily for the raising of nursery stock from seeds, cuttings or transplanted stock is a farm. If any plot of land is used both for the raising of nursery stock and for display of nursery stock or allied products for sale, the parcel or portion is not a farm if the raising is not the primary operation. A parcel of real property or a portion of a parcel of real property that is used primarily to display nursery stock for sale or to display an allied product for sale, or both, is not a farm. Allied product, as used in this rule, includes but is not limited to garden supplies, lawn supplies, tools, equipment, fertilizers, sprays, insecticides or pottery.

**23.26(3)** If other than incidental sales of an allied product are made in connection with a nursery, the operations in connection with the sales area are commercial operations as distinguished from ordinary farm operations and services performed with respect to the sales areas are not agricultural labor.

**23.26(4)** A plot of land used primarily for the raising of Christmas trees is a farm.

**23.26(5)** The following shall be used to determine whether services are defined as agricultural labor.

*a.* Services performed by an individual on a farm, employed by the owner, tenant or operator, in connection with the operation constitutes agricultural labor if:

(1) The services are on the farm on which the materials in their raw or natural state were produced, and

(2) Processing, packing, packaging, transportation, or marketing is carried on as incidental to ordinary farming operation.

*b.* If the service performed is incidental to industrial, manufacturing or commercial operation, it does not constitute agricultural labor. EXAMPLE: Services performed for an insurance company in repair and construction of farm buildings do not constitute agricultural labor.

**23.26(6)** Services performed on nonfarm property by an employee of one who is not the owner, tenant or operator of the farm to which the operation relates or any service rendered in connection with the maintenance and repair of equipment, used in operation on the farm, as well as related collection, clerical and bookkeeping services, are not agricultural labor.

**23.26(7)** Services performed in the handling or processing of any agricultural or horticultural commodity are agricultural employment if performed by an employee of the owner, tenant, or other farm operator, only if the commodity is in a nonmanufactured state and only if the operator produced more than half of the commodity with respect to which the service was performed.

**23.26(8)** Aerial seeding, fertilizing, spraying, dusting, custom planting, cultivating or combining of farm acres by an employee of any agricultural enterprise is agricultural labor. This includes mixing or loading into an airplane the spraying or dusting material, as well as the measuring of the swaths and the marking and flagging of the fields, and is considered agricultural as long as it is performed on a farm. If any of these services are performed on property other than a farm, they are not agricultural labor and are covered by other provisions of the Iowa employment security law.

**23.26(9)** If the employer does not own or operate the farm that is being sprayed or dusted, any service related to employees in connection with maintenance and repair of the aircraft, trucks, or other equipment used in those operations, as well as related collection, clerical and bookkeeping services, are not agricultural labor and are not exempt under the Iowa employment security law.

**23.26(10)** Services performed on a farm by an employee of any person in connection with hatching poultry are agricultural labor. A plot of land together with the structures and buildings located off the farm, devoted to the hatching of poultry, is not considered to be a farm. Any service, under any contract of hire, performed off the farm in connection with the hatching of poultry is not considered agricultural labor.

**23.26(11)** Executive, supervisory, administrative, clerical, stenographic, and office work are not agricultural labor even if performed on a farm and in relation to a farm.

**23.26(12)** Services performed on a farm incidental to the overall commercial activities that are not incidental to ordinary farming operation or directly related to the farming operation are not agricultural labor.

**23.26(13)** Services performed in connection with the processing of agricultural commodities performed on a farm, for a farm operation, are not agricultural labor unless one-half or more of the commodities processed are produced by the farm operator.

**23.26(14)** Services performed in agricultural employment as defined in Iowa Code section 96.1A(16) *"g"*(3) or rule 871—23.26(96) by an agricultural employee for one-half or more of any calendar month are considered agricultural employment the whole of that calendar month.

This rule is intended to implement Iowa Code section 96.1A(16)*"g"*(3).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.27(96) Exempt employment in the employ of a church, association of churches or an organization that is operated primarily for religious purposes.**

**23.27(1)** The word "church" is used in its limited sense and is synonymous with an individual house of worship maintained by a particular congregation. Any service by an individual for a church, convention or association of churches is excluded from coverage. However, the exclusion does not apply to service performed for an organization that may be religious in orientation unless it is operated primarily for religious purposes and is operated, supervised, controlled or principally supported by a church (or a convention or association of churches). Thus, the service of the janitor of a church is excluded, but the service of a janitor for a separately incorporated college, although it may be church-related, is covered.

**23.27(2)** Service for a college devoted primarily to the preparation of students for the ministry is exempt, as is service for a novitiate or a house of study, training candidates to become members of religious orders. However, this chapter does not consider a church-related (separately incorporated) charitable organization (such as an orphanage or a home for the aged) to be operated primarily for religious purposes.

**23.27(3)** The exclusion of service performed by ministers in the exercise of their ministry and by members of a religious order in performing the duties required by such order applies only when such service is performed for nonprofit organizations ordinarily required to be covered by the Iowa employment security law.

**23.27(4)** A minister is ordained, commissioned, or licensed if such minister has been vested with ministerial status in accordance with the procedure followed by the particular church denomination. Such minister does not have to be connected with a congregation. Ministerial authority continues until revoked by the church.

**23.27(5)** The term "exercise of the ministry" includes the conduct of religious worship and the ministration of sacerdotal functions; service performed in the control, conduct, and maintenance of a religious organization under the authority of a religious body constituting a church or church denomination or an organization operated as an integral agency of such a religious organization or of a church or church denomination; service performed for any organization under an assignment or designation by a church (not including cases in which a church merely helps a minister by recommending such minister for a position involving nonministerial services for an organization not connected with the church); and missionary service or administrative work in the employ of a missionary organization. Control, conduct, and maintenance of an organization does not include services such as operating an elevator, or being a janitor, but refers to services performed in the directing, management, or promotion of the activities of the organization.

**23.27(6)** Accordingly, service of clergy as a chaplain in an orphanage or in an old-age home is excluded since such service is in the exercise of a ministry as is the service of members of a teaching or nursing order who are engaged in teaching or nursing. In the case of a member of a religious order, the criterion is whether the order requires the performance of such service.

**23.27(7)** School coverage.

*a.* Schools that are not separately incorporated and are affiliated with a church are exempt from insured employment because their employees are in the direct employ of a church or convention or association of churches.

*b.* Schools that are separately incorporated and are affiliated with a church are exempt from insured employment if such schools are operated primarily for religious purposes.

*c.* Schools that are not affiliated with a church are covered employers with covered employment.

*"Affiliated"* as used in this rule means operated, supervised, controlled, or principally supported by a church or convention or association of churches. A school that is operated primarily for religious purposes must have as its chief and principal purpose for operation a religious orientation. The school must have as its purpose of first or highest rank of importance the religious indoctrination of its students.

This rule is intended to implement Iowa Code section 96.1A(16)*"a"*(6)(a) and (c).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.28(96) Successor.**

**23.28(1)** "Successor employer" means an employing unit that:

*a.* Acquired, and continues to operate, the organization, trade or business, or substantially all the assets of an employing unit that were subject to the provisions of Iowa Code chapter 96 prior to the acquisition, regardless of whether the acquirer was an employing unit prior to the acquisition.

*b.* Acquired a severable portion of the business of an employer who is subject to Iowa Code chapter 96 if:

(1) The portion of the business or enterprise acquired would have qualified as an "employer" pursuant to Iowa Code section 96.1A(14)*"a."*

(2) A request for a transfer of experience of the severable portion was made within 90 days of the transfer date.

(3) The transfer request contains information required by the department and is approved by both the predecessor and department.

**23.28(2)** An "organization," "trade" or "business" as used in Iowa Code section 96.1A(14)*"b"* is acquired if an employing unit acquires factors of an employer's organization, trade or business sufficient to

constitute an entire existing going business unit, not merely assets from which a new business may be built. Acquisition is determined by examining all of the factors of the transfer, including:

*a.* Place of business.
*b.* Employees.
*c.* Customers.
*d.* Good will.
*e.* Trade name.
*f.* Stock in trade.
*g.* Tools and fixtures.
*h.* Other assets.

**23.28(3)** As used in Iowa Code section 96.1A(14)*"b,"* "substantially all of the assets" means substantially all of the assets of any employer that generate substantially all of the employment, except those retained for liquidation.

**23.28(4)** A "segregable and identifiable part" of enterprise as used in Iowa Code section 96.7(3)*"b"* is acquired if an employing unit acquires factors of an existing organization, trade or business sufficient to constitute an existing separable going business unit, not merely assets from which a new business may be built. Acquisition of a distinct and severable portion is determined by examining all the factors, including:

*a.* Place of business.
*b.* Employees.
*c.* Customers.
*d.* Good will.
*e.* Trade name.
*f.* Stock in trade.
*g.* Accounts receivable.
*h.* Tools and fixtures.

**23.28(5)** "Successor liability" as used in Iowa Code chapter 96 and these rules occurs for the acquiring employing unit when there is a transfer of assets necessary to the continued operation of the employing unit from the predecessor to the successor and the successor continues to operate the business as though there has been no change in ownership or control.

**23.28(6)** Successor liability will be found to occur if an enterprise or business is leased to a covered employer and any party or entity purchases or assumes the covered employer's lease, or any party or entity acquires a new lease and substantially all of the assets of the covered employer, and the new lessee continues the operation of the enterprise or business as though there had been no change in the ownership or control of the enterprise or business, such party or entity acquires the covered employer's experience.

**23.28(7)** The department will utilize the following general criteria when establishing successorship in specialized cases:

*a.* Where a covered employing unit is operating an enterprise or business under a lease agreement and it is terminated, there will be no transfer of the covered employing unit's experience unless the lessor takes over and continues to operate the enterprise or business in which case the lessor will be considered the successor to the covered employer's experience.

*b.* Where an enterprise or business is leased to a covered employing unit, and the lease agreement has terminated with the lessor acquiring a new lessee, the new lessee is not considered to be a successor to the experience of the predecessor lessee unless the new lessee acquires substantially all of the assets of the predecessor lessee and the new lessee continues the operation of the enterprise or business to the same basic extent as though there had been no change in the ownership or control of the enterprise or business.

*c.* A franchise agreement will be treated the same as a lease agreement.

*d.* If the bankruptcy court closes an enterprise or business, the court becomes the agent for the bankrupt employer.

(1) Where the court closes the enterprise or business and starts liquidating procedures, the employer's account is placed in an inactive status subject to termination and no successorship or transfer of the employer's experience is involved, or

(2) If the court appoints a trustee or receiver to continue the operation of the enterprise or business, the account address will be corrected to include the name of the trustee or receiver for mailing purposes. If the trustee or receiver obtains a new federal identification number for this business, a new account number will be established for the trustee or receiver as a successor to the original enterprise or business. If the trustee or receiver sells the enterprise or business as a going enterprise, the new owner will be a successor to the predecessor's experience.

*e.* If a covered employer is forced out of business through foreclosure proceedings, there will be no transfer of the employer's experience unless the mortgagee takes over the operation of the business or enterprise and continues it to the same basic extent as though there had been no basic change in the ownership control.

This rule is intended to implement Iowa Code sections 96.7(3)*"b,"* 96.8 and 96.1A(14)*"b."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.29(96) Transfer of entire business.**

**23.29(1)** *Notice of acquisition.*

*a.* Whenever an employing unit in any manner succeeds to or acquires from an employer either the organization, trade or business or substantially all the assets thereof, and continues such organization, trade or business, such employing unit shall notify the department to transfer the account of the predecessor employer to the successor employing unit. The notification must include the name and address of the predecessor, the date of transfer, and the name and address of the successor. When the department receives the notice, or alternatively, when the department receives through other means information establishing the acquisition, the actual contribution and benefit experience and taxable payrolls of the predecessor will be transferred to the successor employing unit to determine its rate of contribution. Thereafter, benefits chargeable are charged to the account of the successor. The predecessor must notify the department of the status change.

*b.* Where one or more employing units have been reorganized, merged or consolidated into a single employing unit and the successor employing unit continues to operate the merged or consolidated enterprise, the employing units involved shall notify the department within 30 days from the date of the transaction. All entities involved in the merger shall provide the articles of merger or, if there are no articles of merger, a statement advising of the merger.

(1) The predecessor business or businesses involved in the merger shall each file a final quarterly payroll report form as soon as possible after the merger has occurred but in no case later than 30 days after the close of the quarter in which the merger was effective.

(2) The successor entity shall indicate whether the experience rates of all accounts are to be combined and the rate recomputed for the balance of the calendar year in which the merger took place.

**23.29(2)** *Contribution rate.* The successor's contribution rate for the remainder of the calendar year in which an acquisition took place is determined as follows:

*a.* If the successor had no account prior to the transfer and the successor purchased the business of only one predecessor, or more than one predecessor with identical rates, the rate assigned will be the rate of the predecessor employer or employers.

*b.* If the successor had no account prior to the transfer and purchased the business of more than one predecessor with the same legal date of transfer, the rate assigned will be a computed rate based on the combined experience of all the predecessor employers.

*c.* If the successor in a merger had an account prior to the transfer, the rate assigned will be the successor's current rate. However, the successor may apply for a recomputed rate based on the combined experience of all predecessors and the experience of the successor only if the legal date of transfer is prior to October 1 in the year it took place.

This rule is intended to implement Iowa Code section 96.7(2)*"b."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.30(96) Successorship—liability for contributions and payments in lieu of contributions.** Any employer who becomes a successor to an employer account is liable for any debt owed to the department by the predecessor at the time of the transfer. Any employer found to be successor to a

reimbursable account is liable to reimburse the department for any benefits paid based on wages paid by the reimbursable employer, whether or not the successor has elected to be reimbursable or is qualified to be reimbursable.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.31(96) Transfer of segregable portion of an enterprise or business.**

**23.31(1)** *Application and required information.*

*a.* Partial experience will be transferred to an employing unit that has acquired such portion only if the successor employing unit:

(1) Submits a registration online within 90 days of the legal date of transfer;

(2) Provides necessary information showing the separate identity of the accounts within 30 days after request is made by the department unless the time has been extended for good cause; and

(3) Continues to operate the acquired part of the business or organization.

*b.* Information required to demonstrate the separate identity of the account includes but is not limited to:

(1) Predecessor signed department forms 68-0068 and 68-0065 report of employer on transfer of one of two or more employing units.

(2) Legal date of transfer for the portion of the business.

(3) Start date for the portion of the business by the predecessor.

(4) Names, social security numbers and wages of the employees acquired for the six calendar quarters prior to the quarter in which the acquisition took place.

(5) Predecessor and successor names, address, account numbers and total taxable wages and benefit charges being transferred by quarter for the 20 calendar quarters including and prior to the legal date of transfer.

*c.* It is the responsibility of the successor employer to decide whether to apply for a partial transfer of experience. A partial transfer request may be withdrawn prior to the department's notice that the transfer has been approved.

*d.* It is the responsibility of the predecessor employer to decide whether to grant the partial transfer of experience. Permission to grant the partial transfer of experience may be withdrawn prior to the department's notice that the transfer has been approved.

**23.31(2)** *Portion of reserve and payroll transferred.* When the requirements for partial transfer as defined in subrule 23.31(1) have been met, the transfer shall be made in accordance with one of the following:

*a.* If the predecessor's account has been in existence less than five years prior to the legal date of transfer (or more than five years when records are available), the information necessary to calculate future rates will be transferred; or

*b.* If the predecessor's account has been in existence more than five years (and records prior to five years are unavailable) and the acquired portion has also been in existence more than five years:

(1) The actual taxable wages, and benefit charges attributable to the acquired portion for the five-year period prior to the legal date of transfer will be transferred, plus

(2) The portion of the predecessor's benefit charges for the period commencing with the beginning date of the predecessor's account and ending five years prior to the legal date of transfer equal to the ratio of the taxable wages attributable to the acquired predecessor for the 12 completed calendar quarters immediately preceding the legal date of transfer to the total taxable wages reported by the predecessor for the same 12-quarter period, and

(3) The individual wage records attributable to the acquired portion; or

*c.* If the predecessor's account has been in existence more than five years but the acquired portion came into existence within the last five years, the actual taxable wages, benefit charges, and individual wage records attributable to the acquired portion will be transferred; or

*d.* In the case of governmental transfers in addition to the items listed above, contributions and interest earned must be transferred for all years.

**23.31(3)** *Future benefit charges based on wages paid by the predecessor prior to the acquisition or purchase date.* The successor employer will be charged for future benefits based on the wage credits transferred to its account for the six-quarter period prior to the acquisition date plus any benefit charges based on wages attributable to the acquired portion prior to the six-quarter period on claims already filed on the date of the acquisition.

**23.31(4)** *Notification of approval or denial of transfer and appeals.*

*a.* Upon review of the application and information indicating a partial transfer, the department will issue a decision approving or denying the transfer. A determination approving a partial transfer request will include the current year's unemployment tax rates for both parties.

*b.* If the department finds that the acquisition of a business or a severable portion thereof was made solely or primarily for the purpose of obtaining a more favorable rate of contribution (e.g., the department fails to find any reasonable business purpose for the acquisition other than a more favorable contribution rate), the transfer will not be approved.

*c.* Any denial of a partial transfer is final and shall become conclusive and binding upon both the predecessor and successor unless one or both of them file an appeal according to this chapter.

**23.31(5)** *Liability of successor for contribution.* Any individual or organization, whether or not an employing unit, that is determined by the department to be a successor is liable for the payment of contribution, interest and penalty due from the predecessor if the department concludes that such contributions cannot be collected from the predecessor.

This rule is intended to implement Iowa Code section 96.7(3).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.32(96) Mandatory and prohibited successorships.**

**23.32(1)** This rule applies to the mandatory successorship in Iowa Code section 96.7(2)*"b"*(2) and the prohibited successorship in Iowa Code section 96.7(2)*"b"*(3). If one employing unit receives the organization, trade or business, or a portion thereof of an employing unit and there is substantially common ownership, management or control of the two, the attributable unemployment experience will be transferred. This rule does not require a transfer of substantially all of the assets nor does it require the transferred portion to be segregable or identifiable. The acquiring employer must continue to operate the organization, trade or business or must transfer operation to an entity with substantially common ownership, management or control with the acquiring entity. Mandatory successorship also applies when the acquirer was not an employing unit prior to the transfer.

*a.* A transfer of staff and the business activity of that staff to an acquiring employer unit that continues to operate the portion of the business will establish mandatory successor liability.

*b.* The mandatory and prohibited successorships contained in Iowa Code section 96.7(2)*"b"*(2) and 96.7(2)*"b"*(3) apply to corporations, limited liability companies, government or governmental subdivisions or agencies, business trusts, estates, trusts, partnerships, sole proprietorships or associations, or any other legal entity as defined in Iowa Code chapter 96.

*c.* "Substantially common ownership, management or control" is determined from the facts of a particular case. Among the factors to be considered are:

(1) The authority to make policy decisions.

(2) The authority to perform personnel actions.

(3) Direction and control of the day-to-day operations.

(4) Financial investment.

(5) Substantial or complete ownership by the same legal entity or entities.

(6) Ability to conduct or liability for financial transactions on behalf of the business.

(7) Authority to commit the business assets.

(8) Common management, which may include direction or overall supervision by an individual or group of individuals.

*d.* For a mandatory full successorship, the tax rate shall be established as provided in subrule 23.29(2), and for a mandatory partial successorship, the tax rate shall be established as provided in subrule 23.32(4).

**23.32(2)** In determining whether or not an acquiring entity continues to operate an organization, trade or business as used in Iowa Code section 96.7(2)*"b"*(2), the following rules apply:

*a.* The acquiring entity continues the ongoing business operation (taking into account any seasonal or prior operational pattern) and continues the same business activity as the prior employer. A temporary cessation of the business activity by the acquiring entity will not constitute a discontinuance of the business.

*b.* The acquiring entity, not having operated the business, reassigns or otherwise transfers the operation of the business to a third-party entity that has substantially common ownership, management or control with the acquiring entity. The third party is considered to be continuing the operation of the original entity.

**23.32(3)** Prohibited successor liability. Successor liability is prohibited when the department finds that a legal entity that is not subject to Iowa Code chapter 96 at the time of acquisition (regardless of whether common ownership, management or control exists) acquires an organization, trade or business solely or primarily for the purpose of obtaining a lower rate of contribution. Factors to be considered include:

*a.* The existing employer account has a tax rate less than would be assigned to a new employer,

*b.* The cost of acquiring the organization, trade or business as compared with any potential savings in contributions costs,

*c.* The acquiring entity substantially changed the organization, trade or business after a short period of time, and

*d.* A substantial number of new employees were hired to perform duties unrelated to the organization, trade or business operated prior to the acquisition.

**23.32(4)** When a mandatory transfer of a portion of a business occurs, the successor's experience and contribution rate will be determined as follows:

*a.* The experience transferred to the acquiring employing unit will be based on the percentage of employees moving from the predecessor to that unit.

(1) The percentage will be computed by comparing the number of employees on the successor's first quarterly report covering a complete calendar quarter to the average number of employees on the four complete quarterly reports filed by the predecessor immediately preceding the transfer. The average number of employees will be computed using only the predecessor's reports that have wages paid during those four quarters.

(2) Using this percentage, taxable wages and benefit charges, commencing with the beginning date of the predecessor's account, will be transferred from the predecessor's account to the successor's account.

*b.* If the successor had no account prior to the transfer, the rate assigned will be the rate of the predecessor for the remainder of the calendar year beginning with the date of acquisition.

*c.* If the successor already had an account prior to the transfer, the rate for the balance of the year in which the transfer took place will be recomputed by combining the transferred experience with the employer's own experience as of the last computation date.

*d.* For the years following the year of acquisition, the rates will be computed using the experience of the employer combined with the transferred experience.

*e.* Future benefit(s) will be charged to the base period employer who reported the base period wages.

*f.* The department will issue a notification when the partial transfer has been completed. The determination will include notice to both parties as to their contribution rate for the current year.

*g.* Any rate determination resulting from a partial transfer will become final unless one or both of the parties file an appeal. Specific procedures and requirements for perfecting an employer liability determination appeal are contained in rule 871—23.52(96).

*h.* In the case of governmental transfers in addition to the items listed above, contributions and interest earned must be transferred for all years.

**23.32(5)** Penalty contribution rate. The department may assess a penalty contribution rate of 2 percent for the current year and two subsequent years for an employer that the department finds has attempted to manipulate and circumvent the proper unemployment tax rate as provided in Iowa Code section 96.7(2)*"b"*(2) and 96.7(2)*"b"*(3) by deliberate nondisclosure of a material fact.

*a.* The employer will be notified of the penalty contribution rate.

*b.* If, after a liability determination has been issued, the department discovers, based upon new facts not available to the department at the time the determination was made, that a previously nonliable entity acquired a business solely or primarily to obtain a lower tax rate, the department will amend the original determination and assign a new employer rate and may provide a penalty contribution rate.

*c.* Interest will accrue on unpaid penalty contributions in the same manner as on regular contributions.

This rule is intended to implement Iowa Code sections 96.7(2)*"b"* and 96.16(5).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.33** to **23.35** Reserved.

**871—23.36(96) Predecessor—contribution rates for winding down a business.** If a predecessor has transferred its organization, trade, or business, or substantially all assets, to a successor, and the predecessor continues to operate a part of the business in order to wind down or close the business after the legal date of transfer, the predecessor will be issued a new account number and treated as a new employer for wages paid beyond four quarters after the legal date of transfer. "Wind down wages" do not include wages earned before the sale or transfer of the business that were paid out within the four quarters after the quarter in which the sale or transfer took place.

This rule is intended to implement Iowa Code section 96.8(1) and 96.8(4)*"a."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.37(96) Adjustments and refunds of contributions.**

**23.37(1)** If an employer, after submitting a quarterly unemployment tax report, discovers an error that results in an overpayment of contribution due and owing, such employer may file an application for credit allowance or refund. If the department discovers that the contribution submitted by any employer is incorrect, resulting in overpayment of contribution, it may on its own initiative refund or make a credit allowance. No refund or credit will be made after three years from the date on which the overpayment was made. The employer will submit a wage adjustment to show corrections for the employee wage lines impacted, corrected total and taxable wages, and an explanation for the wage adjustment.

**23.37(2)** If an employer submits a quarterly unemployment tax report that understates the amount of wages paid in a calendar quarter, the employer will submit a wage adjustment for the period and make payment for all additional contributions, penalty and interest due.

*a.* If it is apparent, upon review of wages reported or adjusted, that an employer has overpaid contribution, the department may make an adjustment and issue a credit within three years from the date of the overpayment. If an employer has multiple accounts, any credit may be moved to an account where there is a balance due.

*b.* If an employer discovers that it may have overpaid contribution, it may submit a request for credit within three years from the date on which the overpayment was made. The department will review the request and, if it determines an adjustment is required, shall issue a credit or refund for the overpayment.

**23.37(3)** A valid credit will be applied to an outstanding balance due on an unemployment tax account. If an employer has multiple accounts, a credit can be moved to a different account where debt might be owed. An employer may request a refund of the credit within three years from the date the credit was created. If the credit is not requested within three years, it will be canceled by the department. Upon request of the employer or at the discretion of the department, a refund can be issued for any overpayment. If the employer fails to utilize the credit as provided above, the department shall, three years from the date of issuance, cancel the credit and show it as a nonrefundable credit. Warrants are issued by the state comptroller.

This rule is intended to implement Iowa Code section 96.14(5).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.38(96) Denial of claim for refund or credit.** If the department requests proof of the validity of any claimed credit, and the employing unit fails to provide the proof within 30 days, the claim will be denied unless the department has provided an extension of time to provide the information.

This rule is intended to implement Iowa Code section 96.14(5).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.39** Reserved.

**871—23.40(96) Computation of rates for private sector employer.** An employer's experience rate shall be computed by dividing the average of all benefits charged to an employer during the five periods of four consecutive calendar quarters immediately preceding July 31 of each year by the employer's five-year average annual taxable payroll to determine its benefit ratio. This ratio is then applied to the current tax rate table to determine the employer's contribution rate for the next calendar year. Contributory Indian tribes are considered private sector employers for the purpose of computing their contribution rate.

This rule is intended to implement Iowa Code sections 96.7(2), 96.7(11), 96.7(12) and 96.1A(7).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.41(96) Computation date defined.** The computation date for determining tax rates for future years is July 1. Rate computation includes all taxable wages and benefit charges for the quarters prior to and ending on June 30 immediately prior to the computation date. Delinquent reports filed after September 30 immediately following the computation date will not be used in the current year's tax rate computation.

This rule is intended to implement Iowa Code section 96.1A(7).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.42** Reserved.

**871—23.43(96) Charging of benefits to employer accounts.**

**23.43(1)** *Benefits paid to an eligible claimant.* Benefits paid to an eligible claimant are charged against the base period wage credits in the same inverse chronological order in which the wages were paid to the claimant.

**23.43(2)** *Formula for charging employer accounts.*

*a.* Wage credits in the most recent quarter of the base period will be used first, and when wage credits in this quarter are exhausted, wage credits for the next most recent quarter will be used until each of the four quarters in the base period is exhausted or until the claimant is paid an amount not to exceed the claimant's maximum benefit amount.

*b.* Each employer who has wage credits in the quarter of the base period will be charged the employer's proportional share of each payment. The proportional share to be charged to each employer in a specific quarter will be based upon the total employer wage credits within that quarter.

**23.43(3)** *Rule of two affirmances.*

*a.* Whenever an administrative law judge affirms a decision of the representative or the employment appeal board affirms the decision of an administrative law judge, allowing payment of benefits, such benefits will be paid regardless of any further appeal.

*b.* However, if the decision is subsequently reversed by higher authority:

(1) The protesting employer involved will have all charges removed for all payments made on such claim.

(2) All payments to the claimant will cease as of the date of the reversed decision unless the claimant is otherwise eligible.

(3) No overpayment will accrue to the claimant because of payment made prior to and during the period in which the department is processing the reversal decision.

**23.43(4)** *Supplemental employment.*

*a.* An individual who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the

individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges.

*b.* On a second benefit year claim where the individual worked only for the part-time employer during the base period and the lag quarter, the part-time employer is not considered for relief of benefit charges with the onset of the second benefit year. It is the part-time employer's responsibility to notify the department of the part-time employment situation so the department may render a decision as to the availability of the individual and benefit charges. The individual is required to report gross wages earned in the part-time employment for each week claimed, and the wages will be deducted from any benefits paid in accordance with Iowa Code section 96.3(3).

*c.* An individual who voluntarily quits supplemental part-time employment without good cause and who has not requalified for benefits following the voluntary quit of supplemental part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, will not be disqualified for voluntarily quitting without good cause the supplemental part-time employer.

*d.* The individual and the supplemental part-time employer that was voluntarily quit without good cause will be notified of the decision made by a department representative, via the Decision of the Workforce Development Representative form, that benefit payments that are based on the wages paid by the supplemental part-time employer shall not be made and benefit charges shall not be assessed against the supplemental part-time employer's account; however, once the individual meets the requalification requirements following the voluntary quit without good cause of the supplemental part-time employer, the wages paid in the supplemental part-time employment will be restored for benefit payment and charging purposes as determined by applicable requalification requirements.

**23.43(5)** *Sole purpose.* The claimant is eligible for benefits, even though the claimant voluntarily quit, if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge will accrue to the account of the former voluntarily quit employer.

**23.43(6)** *Department-approved training.* A claimant who qualifies and is approved for department-approved training (rule 871—24.39(96)) shall continue to be eligible for benefit payments. No contributing employer shall be charged for benefits that are paid to the claimant during the period of the department-approved training. The relief from charges does not apply to the reimbursable employer that is required by law or election to reimburse the trust fund, and the employer shall be charged with the benefits paid.

**23.43(7)** *Ten times the weekly benefit amount in insured work requalification.*

*a.* In order to meet the provision regarding ten times the weekly benefit amount in insured work requalification, the following criteria must be met:

Subsequent to leaving or refusing work, the individual shall have worked in (except in back pay awards) and been paid wages equal to ten times the claimant's weekly benefit amount.

*b.* An employer's account will not be charged with benefit payments to an eligible claimant who quit such employment without good cause attributable to the employer or who was discharged for misconduct or who failed without good cause either to apply for available, suitable work or to accept suitable work with that employer but shall be charged to the balancing account.

*c.* The requalification and transfer of charges will occur for the employer if the requalifying employment is earned with an out-of-state covered employer. The transfer of charges will be made to the balancing account.

*d.* Periods of insured employment with separate employers may be joined to collectively equal ten times the individual's weekly benefit amount when requalification cannot be accomplished by an individual insured employer. The employer from whom the individual left work or was discharged or with whom the individual failed to apply or accept suitable work will not accrue any charges.

*e.* Before benefits can be paid or the transfer of charges can occur, sufficient evidence must be present to establish the fact that the criteria in paragraph 23.43(8)*"a"* has been met. Verification of employment may be completed through the records of the department or by using any method establishing proof of the necessary wage credits, including the following:

(1) An employment verification form is an affidavit prepared in duplicate stating the insured employer's name, mailing address, the starting date of employment, and wages paid subsequent to that date. The form must be signed by the claimant alleging that the facts are correct. Any misrepresentation in the form may result in overpayment, fraud charges, an administrative penalty, or any or all thereof. A copy of the form must be mailed to the employer or employers for verification. The employer should review the information on the form and certify that it is either correct or in error. If the information is incorrect, the employer should give the proper information. If the employer fails to return the form within five days of date mailed, the information on the form will be presumed to be correct.

(2) Employment check stubs may be used in conjunction with the employment verification form to indicate the requalifying period.

**23.43(8)** *Combined wage claim transfer of wages.*

*a.* Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20 will be liable for charges for benefits paid by the out-of-state paying state.

(1) No reimbursement so payable may be charged against a contributory employer's account for the purpose of Iowa Code section 96.7 unless wages so transferred are sufficient to establish a valid Iowa claim, and such charges may not exceed the amount that would have been charged on the basis of a valid Iowa claim.

(2) An employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in Iowa Code section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient to establish a valid Iowa claim. Benefit payments shall be made in accordance with the claimant's eligibility under the paying state's law. Charges are assessed to the employer that are based on benefit payments made by the paying state.

*b.* The Iowa employer whose wage credits have been transferred and who has potential liability will be notified that the wages have been transferred, the state to which they have been transferred, and the mailing address to which a protest of potential charges may be mailed. This protest must be postmarked or received by the department within ten days of the date on the notice to be considered as a timely protest of charges. If the protest from either the reimbursable or contributory employer justifies relief of charges, charges will go to the balancing account.

*c.* Requests received from the paying state for amounts in excess of an amount equal to potential charges of an Iowa claim will not be charged to the Iowa employer.

*d.* When Iowa is the paying state on an interstate claim and Iowa wage credits are insufficient to have a valid Iowa claim, charges will not be made against the Iowa employer's account but will be charged to the balancing account.

**23.43(9)** *Extended benefits.*

*a.* Fifty percent of the amount of each week of extended benefits paid to an individual in accordance with rule 871—24.46(96) shall be charged against the account of the employer that is chargeable for the extended benefits; however, 100 percent of the amount of each week of extended benefits paid to an individual shall be charged against the account of the Indian tribal and governmental contributory or reimbursable employer that is chargeable for the extended benefits.

*b.* The lack of a one-week waiting period prohibits this state from receiving a payment from the U.S. Department of Labor for 50 percent of the amount of the first week of extended benefits paid to an individual. This amount will not be charged against the account of the employer that is chargeable for the extended benefits unless the employer is a nonprofit reimbursable employer but shall be charged against the balancing account.

*c.* In the event that a payment from the U.S. Department of Labor for 50 percent of any week of extended benefits paid to an individual is reduced under an order issued under Section 252 of the United States Balanced Budget and Emergency Deficit Control Act of 1985, the amount of the reduction may not be charged against the account of the employer that is chargeable for the extended benefits unless the employer is a nonprofit reimbursable employer but shall be charged against the balancing account.

**23.43(10)** *Charging of benefits paid to individuals employed by two or more employers.*

*a.* Whenever wage reports submitted to the department show the employment of an individual by more than one employer in the same calendar quarter, benefits shall be charged to each employer's account in the same proportion as wages paid in the quarter.

*b.* Benefits for partial unemployment shall be charged in the same manner as benefits for total unemployment.

**23.43(11)** *Government contributory charges.* For the purpose of determining the base rate for government contributory employers, a percentage of all benefits that are paid but are not chargeable to employer accounts because of various provisions of the law will be considered as belonging to government contributory employers. The percentage of the nonchargeable benefits considered to be attributable to government contributory employers for each calendar year will be determined by the ratio of the benefits actually charged to government contributory accounts for the year to the total benefits charged to all contributory accounts for the year.

**23.43(12)** *Removal of benefit charges upon the sale or transfer of a clearly segregable part of an employer's business or enterprise when the acquiring employer does not receive a partial transfer of experience.* Benefits based on wages earned with the transferring employer, paid to an individual who worked in and was paid wages for work with the acquiring employer, shall be transferred to the balancing account. The transferring employer must protest this issue on the Notice of Claim in a timely manner to receive relief from the charges. The relief of charges applies to both contributory and reimbursable employers.

**23.43(13)** *Disaster relief.* An employer will not be charged with benefits for unemployment that is directly caused by a disaster declared by the president of the United States, pursuant to the United States Disaster Relief Act of 1974, if the individual would have been eligible for disaster unemployment assistance with respect to that unemployment but for the individual's receipt of regular benefits. The employer may protest the charges on the Notice of Claim or the Quarterly Charge Statement within 30 days after the date of mailing of the Quarterly Charge Statement.

This rule is intended to implement Iowa Code sections 96.3(7), 96.5(1), 96.6(2), 96.7, 96.8(5), 96.9(5), 96.11(1), 96.16(4) and 96.29.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.44(96) Benefits payments.**

**23.44(1)** The employer may not be relieved of benefit charges for a payment of back pay until the amount of the overpayment is recovered by the department.

**23.44(2)** If the department determines that an overpayment has been made:

*a.* The charge for the overpayment against the employer's account shall be removed,

*b.* The account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund, and this credit shall include both contributory and reimbursable employers, and

*c.* The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits unless the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, in which case the employer's account shall not be charged for the overpayment.

This rule is intended to implement Iowa Code sections 96.7(3), 96.11(1) and 96.20(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.45** and **23.46** Reserved.

**871—23.47(96) Termination of accounts because of no wage reports.**

**23.47(1)** If an employer discontinues business or continues business without employment, the employer may request that the employer's account be placed in an inactive status. Upon verification of inactive status, the department shall notify the employer and the employer is not required to file quarterly reports.

**23.47(2)** If the department finds that an employer has discontinued business or is no longer paying wages, the department may on its own motion place the account in an inactive status.

**23.47(3)** If an employer has not reported wages for eight consecutive quarters, the account will be placed in inactive status.

**23.47(4)** An employer must notify the department if the employer resumes paying Iowa wages.

**23.47(5)** Inactive accounts will be reactivated, with an experience rate (if eligible), when the date first wages paid after employment resumed is less than or equal to ten consecutive calendar quarter from the quarter in which wages were last paid or when the tenth quarter falls within the same year as the date first wages paid after employment resumed. An employer shall provide all quarterly wage reports, including no wage reports.

This rule is intended to implement Iowa Code sections 96.7(2)*"c"* and *"d"* and 96.8(4)*"b."*

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.48(96) Previously liable employers.** A new unemployment tax account and new employer rating will be given to reimbursable employers electing to become contributory and to formerly active contributory employers whose unemployment tax accounts have changed from inactive to active status.

This rule is intended to implement Iowa Code sections 96.7 and 96.8.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.49** and **23.50** Reserved.

**871—23.51(96) Reimbursable employer contributions.** A nonprofit organization that has been approved to make payments in lieu of contributions (e.g., a reimbursable employer) will be billed each quarter for benefits paid during such quarter.

**23.51(1)** Charges billed to the employer's unemployment account are equal to the regular benefits and one-half of the extended benefits paid. Charges are paid to the unemployment fund.

**23.51(2)** Government and Indian tribal reimbursable employers will be charged an amount equal to all the extended benefits paid.

This rule is intended to implement Iowa Code section 96.8(5).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.52(96) Employer liability appeal.**

**23.52(1)** An employer liability determination including employer status and liability, assessments, rate of contributions, successorships, worker's status, and all questions regarding coverage of a worker or group of workers may be appealed to the department of workforce development for a hearing before an administrative law judge with the department of inspections, appeals, and licensing.

**23.52(2)** The appeal must be in writing, stating:

*a.* The name, address and Iowa employer account number of the employer.

*b.* The name and official position of the person filing the appeal.

*c.* The decision that is being appealed.

*d.* The grounds upon which the appeal is based.

**23.52(3)** The appeal shall be addressed or delivered to: Department of Workforce Development, Tax Bureau, 1000 East Grand Avenue, Des Moines, Iowa 50319. Appeals transmitted by facsimile that are received by the tax bureau after 11:59 p.m. central time will be deemed filed as of the next regular business day.

**23.52(4)** Unless otherwise required, all determinations by the tax bureau will be sent by regular mail or email, depending on how the employer elected to receive correspondence. The determination will be dated, and the employer or other interested party shall have 30 days from the mailing date printed on the notice to appeal the determination. The employer has 15 days to appeal a Notice of Reimbursable Benefit Charges.

**23.52(5)** If the department concludes, upon reviewing an appeal, that the original determination is correct, the tax bureau may write to the employer and further explain the decision. If the employer still desires a hearing before an administrative law judge, the employer should notify the department within 30 days of the date of the letter from the department.

**23.52(6)** Upon receipt of a request for hearing, the tax bureau will ask the department of inspections, appeals, and licensing to schedule a hearing for the employer. A copy of the request will be mailed to the employer. A copy of the file containing all relevant information regarding the issue of the appeal shall be forwarded to the administrative law judge. Documents that may be sent to the administrative law judge include a copy of the disputed decision, the employer's original letter of appeal, all relevant correspondence from the department, and the employer's letter requesting a hearing. All employer liability appeals shall be heard by an administrative law judge and shall be scheduled for hearing at the earliest possible date. Procedures for employer liability hearings are set out in rule 871—26.5(17A,96).

**23.52(7)** In those cases in which the department finds that a genuine controversy exists or has existed regarding an employing unit's liability for contributions on all or a part of its employees or a rate appeal or other employer liability question and the case has been resolved against such employing unit, no interest or penalty will accrue from the date of such controversy between the department and the employing unit until 30 days after the decision becomes final.

This rule is intended to implement Iowa Code section 96.6(3).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.53(96) Rate appeal and eligibility decision reversal.** An employer who appeals a rate notice or corrected rate notice within 30 days may have its rate recomputed based upon the reversal of a benefit eligibility decision under the following circumstances:

**23.53(1)** An employer may appeal on the grounds that benefit charges against the employer's account have been reversed by a decision issued after the rate computation date. The department will investigate and, if warranted, remove benefit charges that were reversed by a later decision and issue a corrected rate notice.

**23.53(2)** The employer may appeal on the grounds that benefits charged against the employer's account may be reversed by a decision to be issued on a pending claim or charge-back appeal. The employer's rate will not be recomputed, but it will not become final and the appeal may be reopened by the employer, provided the employer submits a written request to reopen the appeal within 30 days of the next rate notice following the decision. If warranted, the charges will be removed from the computation of the original rate and a corrected rate notice will be issued. The employer must pay any contributions that become due at the disputed rate prior to the receipt of the decision reversing the benefit charges, but a refund of any overpayment of contributions and interest paid by the employer as a result of the recomputation of the rate will be issued, subject to the three-year statute of limitations set out in Iowa Code section 96.14(5).

**23.53(3)** An employer's payment of contributions at the disputed rate in the circumstances described in subrule 23.53(2) does not indicate the employer's acceptance of the disputed rate.

**23.53(4)** An employer must file a separate appeal of each rate notice received that contains the disputed benefit charges. If the employer does not file a timely appeal of each affected rate notice, any appeal filed following receipt of a decision reversing the allowance of benefits will be considered as applying only to rate notices that were timely appealed and to the next rate notice.

**23.53(5)** If the employer appeals on the grounds that the benefits charged against the employer's account were paid to an employee who was still working for the employer in the same employment as in the base period of the claim, the department will remove the charges and will issue a corrected rate notice if it finds the facts warrant such reversal. The employer's appeal must have been made within 30 days of the date on the first rate notice received that included any of the disputed charges, and the issue of charging of benefits will not have been previously adjudicated in either an appeal of the original claim notice or an appeal of a quarterly benefit charge statement.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.54(96) Payment of disputed assessments.**

**23.54(1)** Payment of a disputed assessment is held to be an acceptance of the assessment only when a timely appeal is not filed.

**23.54(2)** An employing unit that has appealed a determination of liability, or a payment of contributions due, shall submit full payment of any disputed assessment or amounts estimated to be due and file quarterly contribution and payroll for all quarters for which the employer is held liable regardless of any appeal.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.55(96) Burden of proof.**

**23.55(1)** The employer bears the burden of proof in all employer liability cases.

**23.55(2)** The burden of proof shall rest with an employing unit that employs any individual during any calendar year but that considers itself not an employer subject to the Act, to establish that it is not an employer subject to the Act by presenting proper records, including a record of the identity of the employees, number of individuals employed during each week, and the particular days of each week on which services have been performed, and the amount of wages paid to each employee.

**23.55(3)** The burden of proof in successorship and partial successorship cases for determinations, appeals, and licensing shall rest with the employer that is appealing the determination of the department.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.56(96) Informal settlement.**

**23.56(1)** Pursuant to Iowa Code chapter 17A, a controversy may, unless precluded by statute, at the discretion of the department be informally settled by mutual agreement of the department and the person or employer who is or is about to be engaged in the controversy. The settlement is effected by a written statement reciting the subject of the controversy and the proposed solution mutually agreed upon including a statement of the action to be taken, or to be refrained from, by each of the parties. The informal settlement constitutes a waiver, by all parties, of the formalities to which they are entitled under the terms of Iowa Code chapter 17A, with respect to the specific fact situation comprising the controversy.

Either party may initiate a proposal for informal settlement of the controversy by communicating a proposal to the other party before the contested hearing is convened.

**23.56(2)** If the parties agree to a settlement, the written statement is presented to the administrator of the division of unemployment insurance services for review and approval.

**23.56(3)** In the event a settlement is reached in a case that has been appealed to the courts, the formal settlement will be presented to the appropriate district court. If an assessment of contributions or a decision upon which an assessment is based has become final without appeal, the actual established contribution may be compromised by agreement of the parties and submission to the district court pursuant to Iowa Code section 96.14(5). Doubtful collectibility as contained in Iowa Code section 96.14(5) includes tax debts that are doubtful as to validity or as to collectibility. The department is not required to enter into any informal settlement or compromise with regard to any employer liability determination and may do so at its own discretion.

This rule is intended to implement Iowa Code sections 96.6(3) and 96.14(7).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.57(96) Interest and penalty on contributions paid with adjustments submitted by employer.**

**23.57(1)** If an employer, on its own motion, submits an adjustment for an error made on previously submitted wage detail and pays any additional contributions due on the adjustment when submitting the adjustment, no interest on the additional contributions will be charged if it is shown to the satisfaction of the department that the error and subsequent late payment were not the result of negligence, fraud, or intentional disregard of the law or rules of the department.

**23.57(2)** If an employer submits an adjustment without payment, and payment is due, the employer will be assessed for the additional contributions plus interest as provided by law.

This rule is intended to implement Iowa Code section 96.14.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.58** Reserved.

**871—23.59(96) Determination and assessment of estimated contributions and errors in reporting.**

**23.59(1)** If the department finds from the examination of the employer's account that contributions have been underpaid because of a department error in assigning the contribution rate, the additional contributions shall be paid within 30 days after the department notifies the employer. No interest or penalty will accrue until 30 days after the notification.

**23.59(2)** Assessment—failure to file quarterly contribution and payroll.

*a.* If any employing unit fails to file quarterly contribution and payroll reports as required, the department may file estimated wage reports based on the available information. The employer is responsible for all tax, interest and penalties on estimated wage reports.

*b.* Whenever the department determines that the collection of contributions from an employer is in jeopardy and the employer has not timely filed the necessary quarterly wage reports, the department shall prepare estimated reports.

*c.* Estimates made by authorized personnel shall be referred to the collection unit.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.60(96) Accrual of interest and penalties.**

**23.60(1)** An employer who fails to file timely and accurate quarterly wage reports shall pay to the department a penalty in accordance with Iowa Code section 96.14(2).

**23.60(2)** The amount of the penalty for a delinquent or insufficient quarterly contribution and payroll is based on the total wages paid by the employer in the period for which the report was due. The penalty may not be less than $35 for the delinquency or the insufficient wage detail not made sufficient within 30 days of a request to do so. Insufficient wage detail is defined as a quarterly submission that does not have all social security numbers, all corresponding names, total wages for each employee, or a reporting unit number. Wage detail submitted without a correct account number, federal employer identification number, labor market information, or wage detail submitted for an unemployment account that has not yet been established by the employer or agent may be considered insufficient.

**23.60(3)** Interest and penalty will not accrue with respect to contributions required from an employer based upon wages for employment in those cases in which the employer's liability is based solely upon the provisions of Iowa Code section 96.1A(14)*"g"* until 30 days after determination of such liability under FUTA.

**23.60(4)** Interest and penalty may not accrue in those cases where the department finds that, as a matter of equity and good conscience, the employer should not be required to pay interest.

**23.60(5)** Interest as provided under Iowa Code section 96.14 accrues 30 days after the quarterly billing to reimbursable employers.

**23.60(6)** The penalties applicable to contributory employers are applicable to employers who have been approved to make payments in lieu of contributions.

**23.60(7)** Payment checks not honored by bank. An employer is liable for interest for a check in payment of contributions that is not honored by the bank upon which it is drawn.

This rule is intended to implement Iowa Code section 96.14(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.61(96) Collection of interest and penalties.** When quarterly wage reports are filed with contributions paid, but without payment of penalties and interest due, penalties and interest may be assessed and a lien filed in the same manner as for unpaid contributions.

This rule is intended to implement Iowa Code section 96.16(4).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.62(96) Rescission of interest and penalty.**

**23.62(1)** Interest and penalty charges may be rescinded whenever an employer can provide documentary evidence to the satisfaction of the department that an inquiry in writing was directed to the department within 15 days following the end of the quarter for the contribution or payroll, untimely filed or paid, and such contributions are paid in full.

**23.62(2)** Penalty charges only may be rescinded whenever the employer can show documentary evidence that the wages paid to employees used to determine liability to the department were reported to another state in good faith and the contributions thereon were properly paid to the state to which the wages were reported and that said employees were fully insured during the period of unreported liability to this department.

This rule is intended to implement Iowa Code section 96.14(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.63(96) Cancellation of interest and penalty.** The department may, at its discretion and for good cause, cancel interest and penalty upon written request from the employer or its agent. Requests should be directed to the department at its administrative office. The employer will be advised if the request is denied.

In determining whether good cause has been shown, the department shall consider all relevant factors including but not limited to whether the party acted in the manner that a reasonably prudent individual would have acted under the same or similar circumstances, whether the party received timely notice of the need to act, whether there was administrative error by the department, whether there were factors outside the control of the party that prevented a timely action, the efforts made by the party to seek an extension of time by promptly notifying the department, the party's physical inability to take timely action, the length of time the action was untimely, and whether any other interested party has been prejudiced by the untimely action.

This rule is intended to implement Iowa Code section 96.14(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.64(96) Refund of interest and penalty.**

**23.64(1)** Interest or penalty may be refunded only when it has been erroneously paid or overpaid. Interest or penalty erroneously collected in excess of the amount due may be credited or refunded to the employing unit or other person(s) who paid such interest or penalty subject to the following limitations.

**23.64(2)** If the department determines that a claim for refund or credit is allowable in accordance with the Iowa Code and these rules, it shall make necessary adjustments as follows:

*a.* The amount of the overpayment is first applied against any unpaid liability then due from or accrued against the employing unit.

*b.* The remainder of any such overpayment will be refunded to the employing unit or other person(s) by whom it was paid, or its or their successor, administrators or executors.

This rule is intended to implement Iowa Code section 96.14(2).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.65(96) Liens for unpaid contributions, interest, and penalties.**

**23.65(1)** Filing of liens and notice of jeopardy assessments.

*a.* If wages are filed by an employer for the purpose of determining the amount of contribution due, or an assessment of contribution due, and the employer fails to pay any part of the contributions, interest and penalties due, a Notice of Assessment and Lien will be issued to the employer.

*b.* If, 30 days after a Notice of Assessment and Lien or a Notice of Jeopardy Assessment, has been issued (subrule 23.59(2)) and the employer has failed to make payment in full of the amounts that were assessed, the department may file a lien with the county recorder of the county in which the employer has its principal place of business or with the county recorder of any county in which the employer has real or personal property.

*c.* The lien, known as a Notice of Lien, shall state the date of assessment; the employer's name, address and account number; and the amount due. The recorder shall record the Notice of Lien as provided in Iowa Code section 96.14(3).

**23.65(2)** When the Notice of Lien is duly filed and recorded, the amount stated shall be a lien upon the entire interest of the employer, legal or equitable, in any real property, and upon any personal property, tangible or intangible, located in any county where the Notice of Lien or copy is filed.

**23.65(3)** As provided in Iowa Code section 96.14(3), the lien shall attach as of the date the assessment is issued to the employer.

**23.65(4)** The transfer, through sale, exchange, or other method, of a major portion of the assets of a delinquent employer shall not defeat or impair the lien in favor of the department, and the person acquiring such assets shall be held liable for payment of all delinquent contributions, interest, and penalties due from the delinquent employer. The department shall be made a party to any foreclosure action involving any real or personal property against which the department has or may claim a lien.

**23.65(5)** Liens against out-of-state employers and resident employers who remove themselves from the state of Iowa may be obtained in accordance with Iowa Code section 96.14(6).

**23.65(6)** The department may, at its discretion and in accordance with Iowa Code section 96.14(3), make an assessment and file a lien in the recorder's office in the county or state where the employer resides. Liens shall be recorded in accordance with the law governing liens in the state where filed, and the costs shall be borne by the employer.

**23.65(7)** No employment security lien(s) shall be released without payment of the contributions secured except as follows:

*a.* It is shown to the department's satisfaction that the lien(s) was filed in error. If this is shown, the lien shall be at the expense of the department.

*b.* Release of the lien(s) is ordered by a judge having jurisdiction over same.

*c.* A release is necessary to facilitate payment to the department from proceeds of sale in an equity action.

*d.* A foreclosure action has been initiated by a secured creditor and it is demonstrated to the department's satisfaction all of the following:

(1) The lien of the secured creditor is properly perfected and is senior to the employment security lien.

(2) The property, both real and personal, does not exceed in value the amount of the secured lien on which the foreclosure is taken.

**23.65(8)** In such cases, the department may release its lien(s) but such release shall be only in respect to the property foreclosed upon by the secured creditor.

**23.65(9)** Interest and penalty secured by a lien may be compromised by the department at its discretion.

**23.65(10)** Upon payment of contributions, interest, penalty, and costs, the department shall execute a Satisfaction of Lien by filing it with the recorder's office for the county where the lien was filed. A copy of this satisfaction shall be provided to the employer.

This rule is intended to implement Iowa Code section 96.14(3).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.66(96) Jeopardy assessments.**

**23.66(1)** If the department believes the collection of any contribution will be jeopardized by delay, the department may, whether or not the time otherwise prescribed by rule 871—23.8(96) for filing and paying any contribution has expired, immediately assess the contributions, together with all interest and penalty. The contributions, penalty and interest shall become immediately due and payable. The jeopardy assessment may be made by personal service upon the employer or the employer's agent by a representative of the department or civil officer of the state. Should immediate personal service not be possible, the jeopardy assessment shall be sent by mail to the employer's address of record and such mailing shall be a satisfactory service.

**23.66(2)** If, after a jeopardy assessment has been served, the amount assessed remains unpaid and no appeal has been filed by the employer, a notice of lien shall be recorded in the recorder's office for the county or counties in which the employer resides or owns property. A copy of the lien shall be mailed to the employer at the address of record.

**23.66(3)** If, at the time of service of a jeopardy assessment, the employer protests or disputes the correctness of the assessment, the employer may furnish to the department and the department may accept a bond in an amount the department deems necessary but not to exceed double the amount of contributions due, provided the department is satisfied as to the security of the bond. So long as the bond remains in force and the assessment remains in dispute, the department shall not issue a distress warrant. If, after final adjudication of the jeopardy assessment, the employer fails to pay the assessed amount in full, the bond shall be forfeited to the extent necessary to satisfy the jeopardy assessment plus any accrued

interest. Any overage shall be refunded to the employer by warrant or credit. If the bond is insufficient to pay the jeopardy assessment in full, the department may issue a distress warrant as provided in rule 871—23.67(96).

**23.66(4)** After a lien has been filed and the amount or any portion of the amount assessed and any additional accrued interest remains unpaid, the department may at any time issue a distress warrant instructing a sheriff or peace officer to levy upon and seize or attach any real or personal property of the employer in satisfaction of the amount assessed and secured by the lien.

This rule is intended to implement Iowa Code section 96.7(7).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.67(96) Distress warrants.**

**23.67(1)** In addition to and as an alternative to any other remedy provided by the Iowa Code and these rules, the department may proceed to enforce its lien by issuing to the sheriff of any county or to any civil officer of the state of Iowa having proper jurisdiction a distress warrant commanding the sheriff or civil officer to levy upon and sell any real or personal property that may be found within its jurisdiction belonging to an employer who has defaulted in the payment of any sum determined by the department to be due from the employer and to pay the proceeds of the sale over to the clerk of district court in and for the county in which the property is found. All costs of the execution shall be charged to the employer.

**23.67(2)** The sale shall be held after the property has been levied upon, the period of redemption has expired, and the department has petitioned for and been granted a condemnation order in the district court in and for the county in which the property was levied upon, in accordance with the Iowa Code and the Iowa Rules of Civil Procedure.

**23.67(3)** No property belonging to the employer is exempt from execution.

**23.67(4)** Whenever a warrant is returned not satisfied in full, the department may proceed to issue a new warrant in the amount remaining unsatisfied, together with any additional interest, penalties, and costs, as provided above.

This rule is intended to implement Iowa Code section 96.7(6).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.68(96) Collection of covered unemployment compensation.** Pursuant to 26 U.S.C. 6402(f), the department shall utilize the Treasury Offset Program to collect covered unemployment compensation.

This rule is intended to implement Iowa Code section 96.14.

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.69(96) Injunction for nonpayment or failure to provide required information.**

**23.69(1)** In addition or as an alternative to any other remedy provided in Iowa Code chapter 96 and this rule, the department may proceed to enjoin an employer who has refused or failed to pay any contributions, interest, or penalty or who has failed to file or provide any information required by the department.

**23.69(2)** The department retains discretion as to whether or not to seek an injunction.

**23.69(3)** When the department determines that an injunction should be obtained, the department will send by certified mail or by personal service to the employer at the last-known address for the employer a notice containing the following information:

*a.* That the department plans to seek an injunction against the employer.

*b.* The period(s) for which there are delinquent contributions, interest, and penalty due or for which required information has not been provided.

*c.* The amount of indebtedness.

*d.* That the injunction will enjoin the employer from operating any businesses in the state of Iowa until one of the following conditions is met:

(1) The entire indebtedness is paid.

(2) The employer files a full and sufficient bond.

(3) The employer has entered into a court-approved plan providing for payment of the indebtedness.

(4) Requested information has been provided.

*e.* The employer has ten days in which to respond to the department.

**23.69(4)** Upon expiration of the ten days following the notice, if the employer has not responded satisfactorily, the department may file with the district court for the county in which the employer resides a petition requesting a hearing and an order granting the injunction.

**23.69(5)** Upon the issuance of a court order granting the injunction, the department will proceed to periodically check to ensure that the employer is complying with the injunction order. Should the department find that the employer is not in compliance, it will ask the court for a finding of contempt and ask the court to impose appropriate punishment.

**23.69(6)** Upon payment in full of the delinquent contributions, interest, and penalty and the filing of all delinquent wage detail, the department shall have the injunction dissolved.

**23.69(7)** If the employer, as the result of a court-approved payment plan, is relieved by the court of the injunction and the employer fails to perform strictly as set out in the plan, the department may, at its discretion, ask the court to reinstate the injunction upon notice and hearing.

**23.69(8)** Any costs of these actions shall be borne by the employer.

This rule is intended to implement Iowa Code section 96.14(16).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.70(96) Nonprofit organizations.**

**23.70(1)** Any nonprofit organization can be considered eligible to reimburse the Iowa unemployment compensation fund in lieu of paying contributions. Any nonprofit organization wishing to be considered as a reimbursable employer shall file as provided under Iowa Code section 96.7 the election to reimburse the fund with the department for its consideration.

**23.70(2)** The election to reimburse must be signed by an authorized official of the nonprofit organization and be accompanied by:

*a.* A letter of intent indicating the organization's desire to be considered for reimbursable status.

*b.* A copy of the organization's letter of 501(c)(3) exemption from the Internal Revenue Service. If the organization does not have a 501(c)(3) letter at the time of the filing of its election to become a reimbursable employer, it may file a written request with the department for an extension of time setting forth the reason for the request, and the department may grant an extension not to exceed 180 days. Included with this extension request should be a copy of the application for exemption, Election to Make Payments in Lieu of Contributions, or evidence that the request for 501(c)(3) exemption has been made.

*c.* A corporate charter or other foundational documents.

**23.70(3)** All requests by nonprofit organizations wishing to be considered for reimbursable status shall be filed on Form 68-0463 and that form, along with the organization's 501(c)(3) Internal Revenue Service letter of exemption, except as otherwise provided in subrule 23.70(2), shall be directed to the attention of the tax bureau. The request for reimbursable status will be examined by an authorized representative.

**23.70(4)** An organization not possessing a 501(c)(3) nonprofit tax exemption at the time its election is submitted shall be granted reimbursable status provided that the exemption is obtained and a copy is filed with the department within 180 days of the date the election is submitted. Should the organization fail to obtain an exemption within 180 days, the election shall be invalid and the organization required to pay contributions upon all taxable wages paid during the period covered by the invalid election at the contribution rate it would have had if the invalid election had not been made. A new election may not be made by the organization until it has obtained a 501(c)(3) nonprofit tax exemption and has filed a new election. The new election shall not be retroactive to cover the period of the invalid election. Benefits reimbursed during the invalid election shall be used to offset the contributions due, and any excess shall be refunded to the organization.

**23.70(5)** Any nonprofit organization that terminates its election to reimburse the fund shall continue to be liable to reimburse the fund for benefits that are paid based on wages earned during the effective period of the employer's Election to Make Payments in Lieu of Contributions. All benefits charges based on wages paid after the date of the approval of the change of status to a contributory employer shall be charged to the employer's contributory account.

*a.* A nonprofit organization changing its tax status from reimbursable to contributory or contributory to reimbursable will be given a new employer account number. A nonprofit organization terminating its election to reimburse the fund shall be treated as a newly covered employer for the purpose of establishing a contribution rate, except as provided in paragraph 23.70(4)*"b."*

*b.* The experience, while under each tax status, will not be combined for rate computation purposes unless the department finds, or has reason to believe, that the nonprofit organization changing from a reimbursable status to a contributory status is unable to reimburse the fund for benefits outstanding at the time of the change in status, plus any benefits paid after the change in status that are based on wages paid while the nonprofit organization was still in a reimbursable status. The department may then, at its own option, use the unreimbursed benefits in the computation of the nonprofit organization's contribution rate and transfer any contributions collected, above what the nonprofit organization would have paid as a newly covered employer, from the nonprofit organization's contributory account to the reimbursable account to apply against the unreimbursed benefits.

**23.70(6)** Any nonprofit organization that elects to change its status from contributory to reimbursable shall continue to be liable for charges on all benefits based on wages paid when the nonprofit organization was a contributory employer. These charges will be charged to the nonprofit organization's contributory account. The experience of the contributory account will not be merged with the nonprofit organization's reimbursable account.

**23.70(7)** In the event that a reimbursable nonprofit organization succeeds to a contributory employer, such successor employer shall not receive a transfer of account balance from the predecessor account. The account balance shall remain with the predecessor account and be used as an offset against any claims attributable to that account. If an employer, whether or not the employer may elect to be reimbursable, becomes a successor to a reimbursable nonprofit organization, the successor employer shall become obligated for the reimbursable nonprofit organization's unpaid benefit charges in the event that the reimbursable nonprofit organization cannot meet this obligation. The successor employer shall also be liable to reimburse the department, whether or not the successor employer is reimbursable or is eligible to elect to become reimbursable, for benefits paid after the date of the sale or transfer that are based on wages paid by the reimbursable nonprofit organization prior to the date of the sale or transfer.

**23.70(8)** In the event a reimbursable nonprofit organization discontinues business, the reimbursable nonprofit organization will continue to be liable to reimburse the fund in an amount equivalent to the amount of regular unemployment benefits and one-half of the extended benefits paid to an individual that is attributable to wages paid by the reimbursable nonprofit organization prior to the discontinuance of business.

This rule is intended to implement Iowa Code section 96.7(9).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.71(96) Governmental entity—definition.**

**23.71(1)** The definition of a governmental entity is held to include but not be limited to:

*a.* An organization or any division, department, agency, commission, or board of a state or political subdivision established by proper authorities, authorized and created under constitutional provisions or statutes, for the purpose of carrying out a portion of the function of government, including both governmental and proprietary functions.

*b.* An instrumentality is one that is organized to carry on some function or purpose of government for a state or a political subdivision. There is expressed or implied statutory or other authority creating it. It is an independent legal entity with power to hire, supervise, and discharge its own employees. Generally, it can sue or be sued in its own name, to hold, convey real and personal property and borrow money.

*c.* Political subdivisions include counties, cities, municipalities, towns, villages, and townships, as well as irrigation, flood control, sanitation, utility, reclamation, drainage, improvement, and public school districts and authorities or any combination of these and similar governmental entities within the state of Iowa.

*d.* Instrumentalities shall include departments, boards, agencies, commissions, county or municipal corporations, associations and organizations of a state or a political subdivision of the state when the instrumentality is operated by virtue of the authority, power, or powers conferred upon the instrumentality

by a state or political subdivision of the state, or when the instrumentality is controlled, supervised or receives direction, expressed or implied, from a state or political subdivision of a state or such rights are vested in public authority or authorities, or the state or the political subdivision of a state has the right, expressed or implied, to control or direct the policy, operation or to influence the organizations or action of individuals, parties or interests that control those who manage or administer the affairs of such organizations.

**23.71(2)** In cases involving the status of an organization as to whether it is a state, a state instrumentality, a political subdivision of a state or a political subdivision instrumentality, the following factors may be taken into account:

*a.* Whether the revenues are subject to control by a state, a political subdivision of a state or an instrumentality of either.

*b.* Whether the organization has broad powers of taxation, appropriation or authority to levy special assessments on the land located in the district that will stand as a lien upon the property assessed.

*c.* Whether the organization has been created or is existing by virtue of a state, a political subdivision of the state or instrumentality of either, which operates in the public interest, without profit to private persons, and whose purpose is presumed to be a public benefit and conducive to the public health, convenience and welfare.

*d.* Whether the organization is organized or used for a governmental purpose or an aid in the function of government or it performs a governmental function.

*e.* Whether there is an expressed or implied statutory or other authority necessary or existing for the creation or use of the organization.

**23.71(3)** The term "employment" does not apply to services performed for this state, a political subdivision of this state, an Indian tribe or an instrumentality of either by an individual who is an elected official; a member of a legislative body; a member of the judiciary of a state or political subdivision; a member of the state national guard, air national guard, or armed forces reserve; an employee on a temporary-duty basis in the case of fire, storm, snow, earthquake, flood or similar emergency; or in a position designated as a major nontenured policymaking or advisory position pursuant to state law if the position does not ordinarily require duties of more than eight hours per week.

*a.* The exclusion for a governmental entity or Indian tribe from coverage of unemployment of the services of an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency applies only to those individuals who are hired or pressed into service to assist directly with an emergency or urgent distress associated with an emergency, including such temporary tasks as firefighting, rescue, removal of storm debris, cleaning up mud and flood debris, restoration of public facilities, snow removal and road clearance. Volunteer firefighters and police officers, and snow removal personnel, who are called to duty in emergency situations such as fires, floods, emergency snow removal or similar public emergency to perform services on a temporary basis for which they receive pay, are excluded from coverage. The exclusion does not apply to permanent employees whose usual responsibilities include emergency situations.

*b.* The provision that excludes an individual employed by a governmental entity or Indian tribe who exercises duties in a position defined in state law as a major nontenured policymaking or advisory position, or a policymaking or advisory position that ordinarily does not require duties of more than eight hours per week, covers those individuals holding positions designated by, or pursuant to, state law as a policymaking or advisory position. Political subdivisions that have authority to enact ordinances or resolutions without recourse to the state legislature but under authority of state law may also establish and define such positions. The positions may qualify for the exclusion if the political subdivision has enacted an ordinance or resolution creating or designating one of its positions as policymaking or advisory, provided power to make the ordinance or resolution is authorized or permitted by the laws of the state. If the state law or local ordinance or resolution properly designated the positions as policymaking or advisory, the exclusion is clearly applicable. Where the law or the ordinance does not clearly and specifically so categorize or label the position, other pertinent factors such as job descriptions, the qualification of individuals considered for and appointed to the position, and the responsibilities involved shall be taken into account in determining the character of the position for purposes of applying the exclusion.

(1) "Policymaker" is defined as generally referring to the determination of the direction, emphasis and scope of action in the development of, and the administration of, governmental programs. Such responsibilities are confined to and inherent in jobs of the higher echelons of government.

(2) An "advisory position" is one that advises established governmental agencies and officers with respect to policy, program and administration without having authority to implement the recommendations.

(3) The word "major" in the phrase "major nontenured policymaking or advisory position" refers to high level governmental positions usually filled by appointment by the chief executive of the political entity (governor, mayor, etc.), or a council, and that involves responsibilities affecting the entire political entity, whether it be the state, county or city.

(4) The term "nontenured" is used in its usual meaning to mean that the position is not covered by merit system or civil service law or rules with respect to duration of appointment to the service.

(5) Service in a policymaking or advisory position where the performance of the duties ordinarily does not require more than eight hours per week is exempted. It makes no difference whether the position is tenured. If the position ordinarily requires more than eight hours per week, the exclusion does not apply. The number of hours required should be determined by reference to the law establishing the position and the actual time spent by incumbents.

*c.* An elected official includes an individual appointed to serve the unexpired term of an elected position. Such an individual's services for such period are excluded because the individual is performing excluded services.

*d.* An official elected by a body other than the public, such as by a vote by the legislature, board of supervisors, council, school board or trustees, to perform services for a government entity, such individual is not excluded from coverage.

*e.* Services performed for the state national guard or the air national guard are excluded from coverage of the employment security law only as to the services in the individual's "military" capacity. It does not apply to any service performed in any other capacity.

*f.* If a member of the state national guard or air national guard is employed in a civilian capacity performing services for either organization as distinguished from "military" service, the civilian service would be covered as an employee of a governmental entity to the same extent as any other employee.

**23.71(4)** Exemption from "employment" for individuals performing services for a governmental entity or Indian tribe as part of an unemployment work relief or work training program. Services performed by an individual for a government entity or Indian tribe for the purpose of qualifying or repaying a welfare or relief grant will not be considered "employment" provided that:

*a.* The major purpose of the program under which the work is performed is to relieve individuals from their unemployment or poverty.

*b.* The government entity does not pay the welfare or relief grant directly to the individual but instead pays items such as rent, power bills, medical bills, etc., for the individual.

*c.* The services performed by the individuals do not displace regularly employed workers of the government entity.

This rule is intended to implement Iowa Code sections 96.7(8) and 96.1A(16)*"a"*(6).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.72(96) Governmental entity—elective coverage and liability.**

**23.72(1)** Any governmental entity may elect to be a governmental contributory employer by filing for elective coverage as a governmental contributory employer. The rules governing the selection of coverage status for governmental entities apply to Indian tribes. Any governmental entity failing to file such an election will be considered as a governmental reimbursable employer. The application must be signed by a duly constituted governmental official. The election shall be approved if the department finds that:

*a.* It is an application for all employees of the entity.

*b.* The applicant is a "governmental entity."

*c.* It sets forth the name and address of the entity.

**23.72(2)** The effective date of an elective coverage agreement filed by a government entity is the first day of the calendar year in which the election was filed.

**23.72(3)** An agreement for elective coverage shall be continued in effect from period to period unless a written application for termination has been filed with the department 30 days before the beginning of the taxable year for which such termination shall first be effective following the initial one-year period of coverage.

**23.72(4)** An applicant may withdraw an application for elective coverage prior to final approval of the application. The department may, upon written request of the applicant, cancel an elective coverage agreement that has been finally approved if the applicant shows that the application was submitted through justifiable mistake, or error, or was submitted by a person not having proper authorization to bind the applicant.

**23.72(5)** If a governmental entity is succeeded in whole or in part by another governmental entity, the successor may elect to continue the elective coverage agreement of the predecessor or may elect to terminate the elective coverage agreement of the predecessor. If the successor governmental entity was, prior to the acquisition of the predecessor, a governmental entity under an approved elective coverage agreement, the elective coverage agreement of the predecessor shall be continued to the same extent as the elective coverage agreement of the successor. If the successor governmental entity was, prior to the acquisition of the predecessor, a governmental entity not under an approved elective coverage agreement, the successor shall meet the requirements of this rule if it elects to continue the elective coverage agreement of the predecessor.

**23.72(6)** The contribution rate of a governmental contributory employer shall be determined by the ranking of the governmental contributory employer's percentage of excess when compared to all other governmental contributory employers' percentage of excesses and the rate assigned to each rank as determined by the base rate of all governmental contributory employers. The base rate is determined by adding or subtracting the difference between the benefits charged and the contributions paid by governmental contributory employers since January 1, 1980 (adjusted if necessary by excess contributions from calendar years 1978 and 1979), to or from the total benefits charged to governmental contributory employers during the preceding calendar year and dividing this sum by the total taxable wages reported by governmental contributory employers during the same calendar year. The contribution rate of a governmental contributory employer shall be payable on the taxable wages paid by the governmental contributory employer.

**23.72(7)** Liability upon the sale, transfer or discontinuance of a reimbursable governmental employer.

*a.* If a governmental reimbursable employer sells or otherwise transfers its enterprise, business, or operation to a subsequent employing unit, and the subsequent employing unit is determined to be a successor employer, the successor employer shall become liable to the department for the predecessor governmental reimbursable employer's benefit charges that are unpaid as of the date of the sale or transfer in the event that the predecessor governmental reimbursable employer cannot meet this obligation. The successor employer shall also be liable to reimburse the department, whether or not the successor employer is reimbursable or is eligible to elect to become reimbursable, for benefits paid after the date of the sale or transfer that are based on wages paid by the predecessor governmental reimbursable employer prior to the date of the sale or transfer.

*b.* If a reimbursable instrumentality of either a state or a political subdivision is discontinued other than by sale or transfer, the state or the political subdivision shall reimburse the department for the reimbursable instrumentality's benefit charges that are unpaid at the time the reimbursable instrumentality was discontinued. In addition, the state or the political subdivision shall be liable to reimburse the department for benefits paid after the discontinuance of the reimbursable instrumentality that are based on wages paid by the reimbursable instrumentality prior to the discontinuance.

This rule is intended to implement Iowa Code section 96.7(8).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.73(96) Governmental entities—delinquent accounts.**

**23.73(1)** Any governmental entity that is an employer and that becomes delinquent in the payment of contributions or the reimbursement of benefits shall be assessed for the same together with any interest and penalty due thereon.

**23.73(2)** Contributions are due within 30 days of the end of the quarter for which they are incurred. Reimbursable benefit payments are due 30 days after the date of the statement.

This rule is intended to implement Iowa Code section 96.14(3).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.74** to **23.81** Reserved.

**871—23.82(96) Definition of construction employer.**

**23.82(1)** Construction. The department will utilize the North America Industry Classification System manual (2022 edition) to determine which employers will be classified as construction. The manual is available on the Internet to view or download at www.census.gov/naics.

*a.* The construction sector is comprised of establishments primarily engaged in the construction of buildings and other structures, heavy construction (except buildings), additions, alterations, reconstruction, installation, maintenance and repairs. Establishments engaged in demolition or wrecking of buildings and other structures, clearing of building sites, and sale of materials from demolished structures are also included. This sector also includes those establishments engaged in blasting, test drilling, landfill, leveling, earthmoving, excavating, land drainage, and other land preparation. The industries within this sector have been defined on the basis of their unique production processes. As with all industries, the production processes are distinguished by their use of specialized human resources and specialized physical capital. Construction activities are generally administered or managed at a relatively fixed place of business, but the actual construction work is performed at one or more different project sites. Employers that provide workers primarily for construction will be classified as construction employers.

*b.* This sector is divided into three subsectors of construction activities:

(1) Building construction and land subdivision and land development;

(2) Heavy construction (except buildings), such as highways, power plants, and pipelines; and

(3) Construction activity by special trade contractors.

*c.* Establishments classified in Subsector 233, Building, Developing, and General Contracting, and Subsector 234, Heavy Construction, usually assume responsibility for an entire construction project and may subcontract some or all of the actual construction work. Operative builders who build on their own account for sale and land subdividers and land developers who engage in subdividing real property into lots for sale are included in Subsector 233, Building, Developing, and General Contracting. (Special trade contractors are included in Subsector 234, Heavy Construction, if they are engaged in activities primarily relating to heavy construction, such as grading for highways.) Establishments included in these subsectors operate as general contractors, design-builders, engineer-constructors, joint-venture contractors, and turnkey construction contractors. Establishments identified as construction management firms are also included.

*d.* Establishments classified in Subsector 235, Special Trade Contractors, are primarily engaged in specialized construction activities, such as plumbing, painting, and electrical work and work for builders and general contractors under subcontract or directly for project owners. Establishments engaged in demolition or wrecking of buildings and other structures, dismantling of machinery, excavating, shoring and underpinning, anchored earth retention activities, foundation drilling, and grading for buildings are also included in this subsector.

*e.* "Force account" construction is construction work performed by an establishment primarily engaged in some business other than construction, for its own account and use, and by employees of the establishment. This activity is not included in this industry sector unless the construction work performed is the primary activity of a separate establishment of the enterprise.

*f.* The installation of prefabricated building equipment and materials, such as elevators and revolving doors, is classified in the construction sector. Installation work incidental to sales by employees of a manufacturing or retail establishment is classified as an activity of those establishments.

**23.82(2)** The term "construction" includes but is not limited to:

*a. Land subdividing and land development.* Establishments primarily engaged in subdividing real property into lots or developing lots for sale.

*b. Residential building construction.*

(1) Single-family housing construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations, and repairs) of single-family residential housing units.

Building alterations, single-family—general contractors
Building construction, single-family—general contractors
Custom builders, single-family houses—general contractors
Designing and erecting, combined: single-family houses—general contractors
Home improvements, single-family—general contractors
House construction, single-family—general contractors
House: shell erection, single-family—general contractors
Mobile home repair, on site—general contractors
Modular housing, single-family (assembled on site)—general contractors
One-family house construction—general contractors
Prefabricated single-family houses erection—general contractors
Premanufactured housing, single-family (assembled on site)—general contractors
Remodeling buildings, single-family—general contractors
Renovating buildings, single-family—general contractors
Repairing buildings, single-family—general contractors
Residential construction, single-family—general contractors
Row house (single-family) construction—general contractors
Town house construction—general contractors

(2) Multifamily housing construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations and repairs) of multifamily residential housing units.

Apartment building construction—general contractors
Building alterations, residential: except single-family—general contractors
Building construction, residential: except single-family—general contractors
Custom builders, residential: except single-family—general contractors
Designing and erecting, combined: residential, except single-family—general contractors
Dormitory construction—general contractors
Home improvements, residential: except single-family—general contractors
Prefabricated building erection, residential: except single-family—general contractors
Remodeling buildings, residential: except single-family—general contractors
Renovating buildings, residential: except single-family—general contractors
Repairing buildings, residential: except single-family—general contractors
Residential construction, except single-family—general contractors

*c. Nonresidential building construction.*

(1) Manufacturing and industrial building construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations and repairs) of manufacturing and industrial buildings.

Building alterations, industrial and warehouse—general contractors
Building components manufacturing plant construction—general contractors
Building construction, industrial and warehouse—general contractors
Clean room construction—general contractors
Cold storage plant construction—general contractors
Commercial warehouse construction—general contractors
Custom builders, industrial and warehouse—general contractors
Designing and erecting, combined: industrial—general contractors
Dry cleaning plant construction—general contractors
Factory construction—general contractors
Food products manufacturing or packing plant construction—general contractors
Grain elevator construction—general contractors
Industrial building construction—general contractors
Industrial plant construction—general contractors

Paper pulp mill construction—general contractors
Pharmaceutical manufacturing plant construction—general contractors
Prefabricated building erection, industrial—general contractors
Remodeling buildings, industrial and warehouse—general contractors
Renovating buildings, industrial and warehouse—general contractors
Repairing buildings, industrial and warehouse—general contractors
Truck and automobile assembly plant construction—general contractors
Warehouse construction—general contractors

(2) Commercial and industrial building construction. Establishments primarily responsible for the entire construction (i.e., new work, additions, alterations and repairs) of commercial and industrial buildings.

Administration building construction—general contractors
Amusement building construction—general contractors
Auditorium construction—general contractors
Bank building construction—general contractors
Building alterations, nonresidential: except industrial and warehouses—general contractors
Building construction, nonresidential: except industrial and warehouses—general contractors
Casino construction—general contractors
Church, synagogue and related building construction—general contractors
Civic center construction—general contractors
Commercial building construction—general contractors
Custom builders, nonresidential: except industrial and warehouses—general contractors
Designing and erecting, combined: commercial—general contractors
Dome construction—general contractors
Farm building construction, except residential—general contractors
Fire station construction—general contractors
Garage construction—general contractors
Hospital construction—general contractors
Hotel construction—general contractors
Institutional building construction, nonresidential—general contractors
Mausoleum construction—general contractors
Motel construction—general contractors
Municipal building construction—general contractors
Museum construction—general contractors
Office building construction—general contractors
Passenger and freight terminal building construction—general contractors
Post office construction—general contractors
Prefabricated building erection, nonresidential: except industrial and warehouses—general contractors
Prison construction—general contractors
Remodeling buildings, nonresidential: except industrial and warehouses—general contractors
Renovating buildings, nonresidential: except industrial and warehouses—general contractors
Repairing buildings, nonresidential: except industrial and warehouses—general contractors
Restaurant construction—general contractors
School building construction—general contractors
Service station construction—general contractors
Shopping center construction—general contractors
Silo construction, agricultural—general contractors
Stadium construction—general contractors
Store construction—general contractors

*d. Highway, street, bridge and tunnel construction.*

(1) Highway and street construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, or repairs) of highways (except elevated), streets, roads, or airport runways,

and establishments identified as highway and street construction management firms, and establishments identified as special trade contractors engaged in performing subcontract work primarily related to highway and street construction.

Airport runway construction—general contractors
Alley construction—general contractors
Asphalt paving; roads, public sidewalks and streets—contractors
Concrete construction; roads, highways, public sidewalks, and streets—contractors
Grading for highways, streets and airport runways—contractors
Guardrail construction on highways—contractors
Highway construction, except elevated—general contractors
Highway signs, installation of—contractors
Parkway construction—general contractors
Paving construction—contractors
Resurfacing streets and highways—contractors
Road construction, except elevated—general contractors
Sidewalk construction, public—contractors
Street maintenance or repair—contractors
Street paving—contractors

(2) Bridge and tunnel construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, or repairs) of bridges, viaducts, elevated highways and tunnels, and establishments identified as bridge and tunnel construction management firms, and establishments identified as special trade contractors primarily engaged in performing subcontract work related to bridge and tunnel construction.

Abutment construction—general contractors
Bridge construction—general contractors
Causeway construction on structural supports—general contractors
Highway construction, elevated—general contractors
Overpass construction—general contractors
Trestle construction—general contractors
Tunnel construction—general contractors
Underpass construction—general contractors
Viaduct construction—general contractors

*e. Other heavy construction.*

(1) Water, sewer, and pipeline construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, rehabilitation or repairs) of water mains, sewers, drains, gas mains, natural gas pumping stations, and gas and oil pipelines, and establishments identified as water, sewer and pipeline construction management firms, and establishments identified as special trade contractors engaged in activities primarily related to water, sewer, and pipeline construction.

Aqueduct construction—general contractors
Conduit construction—contractors
Distribution lines (oil and gas field) construction—general contractors
Gas main construction—general contractors
Manhole construction—contractors
Natural gas compressing station construction—general contractors
Pipe laying—general contractors
Pipeline construction—general contractors
Pipeline wrapping—contractors
Pumping station construction—general contractors
Sewage collection and disposal line construction—general contractors
Sewer construction—general contractors
Water main line construction—general contractors

(2) Power and communication transmission line construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, rehabilitation or repairs) of electric power and communication transmission lines and towers, radio and television transmitting/receiving towers, cable laying, and cable television lines, and establishments identified as power and communication transmission line construction management firms, and establishments identified as special trade contractors engaged in activities primarily related to power and communication line construction.

Cable laying construction—contractors
Cable television line construction—contractors
Pole line construction—general contractors
Power line construction—general contractors
Telegraph line construction—general contractors
Telephone line construction—general contractors
Television and radio transmitting tower construction—general contractors
Transmission line construction—general contractors

(3) Industrial nonbuilding structure construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction, rehabilitation or repairs) of heavy industrial nonbuilding structures, such as chemical complexes, or facilities, cement plants, petroleum refineries, industrial incinerators, ovens, kilns, power plants (except hydroelectric plants), and nuclear reactor containment structures, and establishments identified as industrial nonbuilding construction management firms, and establishments identified as special trade contractors engaged in activities primarily related to industrial nonbuilding construction.

Chemical complex or facilities construction—general contractors
Coke oven construction—general contractors
Discharging station construction, mine—general contractors
Furnace construction for industrial plants—general contractors
Industrial incinerator construction—general contractors
Industrial plant appurtenance construction—general contractors
Kiln construction—general contractors
Light and power plant construction—general contractors
Loading station construction, mine—general contractors
Mine loading and discharging station construction—general contractors
Mining appurtenance construction—general contractors
Nuclear reactor containment structure construction—general contractors
Oil refinery construction—general contractors
Oven construction, bakers'—general contractors
Oven construction for industrial plants—general contractors
Petrochemical plant construction—general contractors
Petroleum refinery construction—general contractors
Power plant construction—general contractors
Tipple construction—general contractors
Washeries construction, mining—general contractors

(4) All other heavy construction. Establishments primarily responsible for the entire construction (i.e., new work, reconstruction or repairs) of heavy nonbuilding construction projects (except highway, street, bridge, tunnel, water lines, sewer lines, pipelines, and power and communication transmission lines), and industrial nonbuilding structures, and establishments identified as all other heavy construction management firms, and establishments primarily engaged in construction equipment rental with an operator, and establishments identified as special trade contractors engaged in activities primarily related to all other heavy construction.

Athletic field construction—general contractors
Blasting, except building demolition—contractors
Breakwater construction—general contractors
Bridle path construction—general contractors

Brush clearing or cutting—contractors
Caisson drilling—contractors
Canal construction—general contractors
Channel construction—general contractors
Channel cutoff construction—general contractors
Clearing of land—general contractors
Cofferdam construction—general contractors
Cutting right-of-way—general contractors
Dam construction—general contractors
Dike construction—general contractors
Dock construction—general contractors
Drainage project construction—general contractors
Dredging—general contractors
Earthmoving, not connected with building construction—general contractors
Flood control project construction—general contractors
Golf course construction—general contractors
Harbor construction—general contractors
Heavy equipment rental with an operator—contractors
Hydroelectric plant construction—general contractors
Irrigation projects, construction—general contractors
Jetty construction—general contractors
Land clearing—contractors
Land drainage—contractors
Land leveling (irrigation)—contractors
Land reclamation—contractors
Levee construction—general contractors
Lock and waterway construction—general contractors
Marine construction—general contractors
Missile facilities construction—general contractors
Pier construction—general contractors
Pile driving—general contractors
Pond construction—general contractors
Railroad construction—general contractors
Railway roadbed construction—general contractors
Reclamation projects construction—general contractors
Reservoir construction—general contractors
Revetment construction—general contractors
Rock removal-underwater—contractors
Sewage treatment plant construction—general contractors
Ski tow erection—general contractors
Soil compacting service—contractors
Submarine rock-removal—general contractors
Subway construction—general contractors
Tennis court construction, outdoor—general contractors
Timber removal-underwater—contractors
Trail building—general contractors
Trailer camp construction—general contractors
Trenching—contractors
Waste disposal plant construction—general contractors
Water power project construction—general contractors
Water treatment plant construction—general contractors
Waterway construction—general contractors

Wharf construction—general contractors

*f. Plumbing, heating and air-conditioning contractors.* Establishments primarily engaged in one or more of the following: (1) installing plumbing, heating, and air-conditioning equipment; (2) servicing plumbing, heating, and air-conditioning equipment; and (3) the combined activity of selling and installing plumbing, heating, and air-conditioning equipment. The plumbing, heating, and air-conditioning work performed includes new work, additions, alterations, and maintenance and repairs.

Air system balancing and testing—contractors
Air-conditioning, with or without sheet metal work—contractors
Boiler cleaning—contractors
Boiler erection and installation—contractors
Drainage system installation (cesspool and septic tank)—contractors
Dry well (cesspool) construction—contractors
Fuel oil burner installation and servicing—contractors
Furnace repair—contractors
Gasline hookup—contractors
Heating equipment installation—contractors
Heating, with or without sheet metal work—contractors
Lawn sprinkler system installation—contractors
Mechanical contractors
Piping, plumbing—contractors
Plumbing and heating—contractors
Plumbing repair—contractors
Plumbing, with or without sheet metal work—contractors
Solar heating apparatus—contractors
Sprinkler system installation—contractors
Steam fitting—contractors
Sump pump installation and servicing—contractors
Ventilating work, with or without sheet metal work—contractors
Water pump installation and servicing—contractors
Water system balancing and testing—contractors
Work combined with heating or air-conditioning—contractors

*g. Painting and wall covering contractors.* Establishments primarily engaged in interior or exterior painting and interior wall covering. The painting and wall covering work includes new work, additions, alterations, and maintenance and repairs.

Bridge painting—contractors
Electrostatic painting on site (including lockers and fixtures)—contractors
House painting—contractors
Painting of buildings and other structures, except roofs—contractors
Paper hanging—contractors
Ship painting—contractors
Traffic lane painting—contractors
Wallpaper removal—contractors
Whitewashing—contractors

*h. Electrical contractors.* Establishments primarily engaged in one or more of the following: (1) performing electrical work at the site; (2) servicing electrical equipment at the site; and (3) the combined activity of selling and installing electrical equipment. The electrical work performed includes new work, additions, alterations, and maintenance and repairs.

Cable splicing, electrical—contractors
Cable television hookup—contractors
Communication equipment installation—contractors
Electric work—contractors
Electrical repair at site of construction—contractors

Electronic control system installation—contractors
Highway lighting and electrical signal construction—contractors
Intercommunication equipment installation—contractors
Sound equipment installation—contractors
Telecommunications equipment installation—contractors
Telephone and telephone equipment installation—contractors

*i. Masonry, stone work, tile setting and plastering.*

(1) Masonry and stone contractors. Establishments primarily engaged in masonry work, stone setting, and other stone work. The masonry work, stone setting and other stone work performed includes new work, additions, alterations, and maintenance and repairs.

Bricklaying—contractors
Cement block laying—contractors
Chimney construction and maintenance—contractors
Concrete block laying—contractors
Foundations, building of: block, stone or brick—contractors
Marble work, exterior construction—contractors
Masonry—contractors
Refractory brick construction—contractors
Retaining wall construction: block, stone or brick—contractors
Stone setting—contractors
Stone work erection—contractors
Tuck pointing—contractors

(2) Drywall, plastering, acoustical, and insulation contractors. Establishments primarily engaged in drywall, plaster work, acoustical and building insulation work. The drywall, plaster work, acoustical and insulation work performed includes new work, additions, alterations, and maintenance and repairs.

Acoustical work—contractors
Ceilings, acoustical installation—contractors
Drywall construction—contractors
Insulation installation, buildings—contractors
Lathing—contractors
Plastering, plain or ornamental—contractors
Solar reflecting insulation film—contractors
Stucco construction—contractors
Taping and finishing drywall—contractors

(3) Tile, marble, terrazzo, and mosaic contractors. Establishments primarily engaged in (1) setting and installing ceramic tile, marble (interior only), terrazzo, and mosaic, or (2) mixing marble particles and cement to make terrazzo at the job site. The tile, marble, terrazzo, and mosaic work performed includes new work, additions, alterations, and maintenance and repairs.

Fresco work—contractors
Mantel work—contractors
Marble installation, interior; including finishing—contractors
Mosaic work—contractors
Terrazzo work—contractors
Tile installation, ceramic—contractors
Tile setting, ceramic—contractors

*j. Carpentering and floor contractors.*

(1) Carpentry contractors. Establishments primarily engaged in framing, carpentry, and finishing work. The carpentry work performed includes new work, additions, alterations, and maintenance and repairs.

Carpentry work—contractors
Folding door installation—contractors
Framing—contractors

Garage door installation—contractors
Joinery, ship—contractors
Ship joinery—contractors
Store fixture installation—contractors
Trim and finish—contractors
Window and door (prefabricated) installation—contractors

(2) Floor laying and other floor contractors. Establishments primarily engaged in the installation of resilient floor tile, carpeting, linoleum, and wood or resilient flooring. The floor laying and other floor work performed includes new work, additions, alterations, and maintenance and repairs.

Asphalt tile installation—contractors
Carpet laying or removal service—contractors
Fireproof flooring construction—contractors
Floor laying, scraping, finishing and refinishing—contractors
Flooring, wood—contractors
Hardwood flooring—contractors
Linoleum installation—contractors
Parquet flooring—contractors
Resilient floor laying—contractors
Vinyl floor tile and sheet installation—contractors

*k. Roofing, siding, and sheet metal contractors.* Establishments primarily engaged in the installation of roofing, siding, sheet metal work, and roof drainage-related work, such as downspouts and gutters. The roofing, siding and sheet metal work performed includes new work, additions, alterations, and maintenance and repairs.

Architectural sheet metal work—contractors
Ceilings, metal; erection and repair—contractors
Coppersmithing, in connection with construction work—contractors
Downspout installation, metal—contractors
Duct work, sheet metal—contractors
Gutter installation, metal—contractors
Roof spraying, painting or coating—contractors
Roofing work, including repairing—contractors
Sheet metal work: except plumbing, heating or air-conditioning—contractors
Siding—contractors
Skylight installation—contractors
Tinsmithing, in connection with construction work—contractors

*l. Concrete contractors.* Establishments primarily engaged in the use of concrete and asphalt to produce parking areas, building foundations, structures, and retaining walls and the use of all materials to produce patios, private driveways and private walks. The concrete work performed includes new work, additions, alterations, and maintenance and repairs.

Asphalting of private driveways and private parking areas—contractors
Blacktop work; private driveways and private parking areas—contractors
Concrete finishers—contractors
Concrete work: private driveways, sidewalks, and parking areas—contractors
Culvert construction—contractors
Curb construction—contractors
Foundations, building of: poured concrete—contractors
Grouting work—contractors
Gunite work—contractors
Parking lot construction—contractors
Patio construction, concrete—contractors
Sidewalk construction, except public—contractors

*m. Water well drilling contractors.* Establishments primarily engaged in drilling, tapping, and capping of water wells and geothermal drilling. The water well drilling work performed includes new work, additions, alterations, and maintenance and repairs.

Drilling water wells—contractors

Geothermal drilling—contractors

Servicing water wells—contractors

Well drilling, water: except oil or gas field water intake—contractors

*n. Other special trade contractors.*

(1) Structural steel erection contractors. Establishments primarily engaged in one or more of the following: (1) erecting metal, structural steel and similar products of prestressed or precast concrete to produce structural elements of building exterior, and elevator fronts; (2) setting rods, bars, rebar, mesh and cages to reinforce poured-in-place concrete; and (3) erecting cooling towers and metal storage tanks. The structural steel erection work performed includes new work, additions, alterations, reconstruction, and maintenance and repairs.

Building front installations, metal—contractors

Concrete products, structural precast or prestressed: placing of—contractors

Concrete reinforcement, placing of—contractors

Curtain wall installation—contractors

Elevator front installation, metal—contractors

Iron work, structural—contractors

Metal furring—contractors

Steel work, structural—contractors

Storage tanks, metal; erection—contractors

Storefront installation, metal—contractors

(2) Glass and glazing contractors. Establishments primarily engaged in installing glass or tinting glass. The glass work performed includes new work, additions, alterations, and maintenance and repairs.

Glass installation, except automotive—contractors

Glass work, except automotive—contractors

Glazing work—contractors

Tinting glass—contractors

(3) Excavation contractors. Establishments primarily engaged in preparing land for building construction. The excavation work performed includes new work, additions, alterations, and repairs.

Excavation work—contractors

Foundation digging (excavation)—contractors

Grading: except for highways, streets and airport runways—contractors

(4) Wrecking and demolition contractors. Establishments primarily engaged in wrecking and demolition of buildings and other structures.

Concrete breaking for streets and highways—contractors

Demolition of buildings or other structures, except marine—contractors

Dismantling steel oil tanks, except oil field work—contractors

Underground tank removal—contractors

Wrecking of building or other structures, except marine—contractors

(5) Building equipment and other machinery installation contractors. Establishments primarily engaged in one or more of the following: (1) the installation or dismantling of building equipment, machinery or other industrial equipment; (2) machine rigging; and (3) millwrighting. The building equipment and other machinery installation work performed includes new work, additions, alterations, and maintenance and repairs.

Conveyor system installation—contractors

Dismantling of machinery and other industrial equipment—contractors

Dumbwaiter installation—contractors

Dust collecting equipment installation—contractors

Elevator installation, conversion, and repair—contractors

Incinerator installation, small—contractors
Installation of machinery and other industrial equipment—contractors
Machine rigging—contractors
Millwrights
Pneumatic tube system installation—contractors
Power generating equipment installation—contractors
Revolving door installation—contractors
Vacuum cleaning systems, built-in—contractors

(6) All other special trade contractors. Establishments primarily engaged in specialized construction work. The other specialized work performed includes new work, additions, alterations, and maintenance and repairs.

Antenna installation, except household type—contractors
Artificial turf installation—contractors
Awning installation—contractors
Bathtub refinishing—contractors
Boring for building construction—contractors
Bowling alley installation and service—contractors
Cable splicing service, nonelectrical—contractors
Caulking (construction)—contractors
Cleaning building exteriors—contractors
Cleaning new buildings after construction—contractors
Coating of concrete structures with plastic—contractors
Core drilling for building construction—contractors
Countertop installation—contractors
Dampproofing buildings—contractors
Dewatering—contractors
Diamond drilling for building construction—contractors
Epoxy application—contractors
Erection and dismantling of forms for poured concrete—contractors
Fence construction—contractors
Fire escape installation—contractors
Fireproofing buildings—contractors
Forms for poured concrete, erection and dismantling—contractors
Gas leakage detection—contractors
Gasoline pump installation—contractors
Glazing of concrete surfaces—contractors
Grave excavation—contractors
House moving—contractors
Insulation of pipes and boilers—contractors
Lead burning—contractors
Lightning conductor erection—contractors
Mobile home site setup and tie down—contractors
Ornamental metal work—contractors
Paint and wallpaper stripping—contractors
Plastic wall tile installation—contractors
Posthole digging—contractors
Sandblasting of building exteriors—contractors
Scaffolding construction—contractors
Service and repair of broadcasting stations—contractors
Service station equipment installation, maintenance and repair—contractors
Shoring and underpinning work—contractors
Spectator seating installation—contractors

Steam cleaning of building exteriors—contractors
Steeplejacks
Swimming pool construction—contractors
Television and radio stations, service and repair of—contractors
Test boring for construction—contractors
Tile installation, wall: plastics—contractors
Waterproofing—contractors
Weatherstripping—contractors
Welding contractors, operating at site of construction
Window shade installation—contractors

**23.82(3)** *The assignment of standard industrial codes.* Each operating establishment is assigned an industry code on the basis of its primary activity, which is determined by its principal product or group of products produced or distributed, or services rendered. Ideally, the principal product or service should be determined by its relative share of value added at the establishment. Since this is not possible for all sectors of the economy, the following is used as a guide for determining industry codes:

| Division | Data Measure |
|---|---|
| Agriculture, forestry and fishing (except agricultural services) | Value of production |
| Mining | Value of production |
| Construction | Value of production |
| Manufacturing | Value of production |
| Transportation, communication, electric, gas and sanitary services | Value of receipts or revenues |
| Wholesale trade | Value of sales |
| Retail trade | Value of sales |
| Finance, insurance, and real estate | Value of receipts |
| Service (including agricultural services) | Value of receipts or revenues |
| Public administration | Employment or payroll |

In some cases it will not be possible to determine even on an estimated basis the value of production or similar appropriate measure for each product or service. In other cases an industrial classification based on measures of output will not accurately reflect the importance of the diversified activities. In these cases, employment or payroll should be used in lieu of the normal basis for determining the primary activity and subsequent code assignment of the establishment.

This rule is intended to conform to federal changes in the North American Industry Classification System and implements Iowa Code sections 96.7(2), 96.7(3), 96.7(4) and 96.11(1).

[**ARC 8848C**, IAB 1/22/25, effective 2/26/25]

**871—23.83(96) References.**

**23.83(1)** All references to the Code of Federal Regulations (CFR) and United States Code (U.S.C.) in this chapter are to the laws as amended as of November 1, 2024.

**23.83(2)** All references to the Federal Unemployment Tax Act refer to 23 U.S.C. Sections 3301 through 3311 as amended as of November 1, 2024.

**23.83(3)** All references to the United States Internal Revenue Code refer to 26 CFR Sections 1 through 9834 as amended as of November 1, 2024.

**23.83(4)** All references to the United States Federal Insurance Contributions Act refer to 26 U.S.C. Sections 3101 through 3134 as amended as of November 1, 2024.

**23.83(5)** All references to the United States Balanced Budget and Emergency Deficit Control Act of 1985 refer to PL 99-177 as amended as of November 1, 2024.

**23.83(6)** All references to the United States Disaster Relief Act of 1974 refer to PL 93-288 as amended as of November 1, 2024.

This rule is intended to implement Iowa Code chapter 96 and section 17A.6.

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1 Agency rescinded prior to effective date

# CHAPTER 24
# CLAIMS AND BENEFITS

[Prior to 11/17/75, Ch 3]
[Prior to 9/24/86, Employment Security[370]]
[The filed emergency amendments were rescinded and the amendments to Chapter 4 were adopted following Notice, 12/31/86 IAB, effective 2/4/87]
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**871—24.1(96) Definitions.** Unless the context otherwise requires, the terms used in these rules shall have the following meaning. All terms that are defined in Iowa Code chapter 96 shall be construed as they are defined in Iowa Code chapter 96.

**24.1(1)** Reserved.

**24.1(2)** *Administrative office (state).* The state administrative office of the division of unemployment insurance services of the department of workforce development.

**24.1(3)** *Agent state.* The state in which a worker claims benefits against another (liable) state through the facilities of the state employment security agency.

**24.1(4)** *Applicant.* Any individual applying for work at a workforce development center.

**24.1(5)** *Average weekly wages.*

*a.* For an individual worker, the result obtained by dividing the individual's total wages in a specified period either by the total number of weeks in the period or by the number of weeks for which wages were payable to the individual during the period.

*b.* For a group of workers, the result obtained by dividing the total wages for one or more quarters by the number of weeks in the period, and then dividing by the average monthly employment during the period.

**24.1(6)** *Base period.* See Iowa Code section 96.1A(3).

**24.1(7)** *Base period employer and chargeable employer.* See Iowa Code section 96.3.

**24.1(8)** *Benefit eligibility conditions.* Statutory requirements that must be satisfied by an individual with respect to each week of unemployment before benefits can be received.

**24.1(9)** *Claim.* A request for benefit payment; also used to mean any notice filed by an individual to establish insured status or a notice filed by an individual to inform the administrative agency of the individual's unemployment.

*a.* A claim may be filed under any one or more of the following programs:

(1) The state program of unemployment insurance (UI),

(2) The federal program of unemployment compensation for federal employees (UCFE) established by Title V of the United States Code, and

(3) The federal program of unemployment compensation for ex-military personnel (UCX) established by Title V of the United States Code.

*b.* Unless otherwise specified, the term claim as used in the following definitions is applicable equally to each of the three programs.

(1) Additional claim. An application for determination of eligibility filed on an established claim that follows a period of employment.

(2) Additional interstate claim. A claim filed by an interstate claimant within the benefit year of a liable state in which insured status has already been established, after a break in the continuity of filing continued interstate claims, or to establish a new series of claims against that liable state from a new agent state.

(3) Additional UI, UCFE, or UCX claim. A notice filed at the beginning of a second or subsequent series of claims within a benefit year, when a break in job attachment has occurred since the last claim was filed, concerning which state procedures require that separation information be obtained.

(4) Combined wage claim. A claim filed according to an interstate agreement that allows workers who lack qualifying wages in any one state, or who qualify for less than maximum benefits in one or more states, to qualify or to increase benefits by combining wages from all states.

(5) Compensable claim. A request for benefit payment that certifies the completion of a week of total or partial unemployment to satisfy a claim benefit for a compensable week.

(6) Contested claim. A claim that has been protested by an employer, the department or an interested party regarding the claimant's right to benefits.

(7) Continued claim. A continued claim is a request for benefit payment. A continued claim is a compensable claim. It is an electronic, oral or written application that certifies to the completion of a week of total unemployment or partial employment to claim benefits for a compensable week.

(8) Initial claim. An application for a determination of eligibility for benefits which determination sets forth the weekly benefit amount and duration of benefits for a benefit year.

(9) Initial interstate claim. A new or an additional interstate claim.

(10) Interstate claim. A claim filed in one state (agent state) against another state (liable state).

(11) Intrastate claim. A claim filed in the state of residence against wages earned in that state or by an interstate commuter.

(12) Mail claim. Reserved.

(13) New claim. An application for the establishment of a benefit year.

(14) New interstate claim. The first interstate claim filed by a claimant against a liable state that serves as a request for determination of insured status.

(15) New intrastate extended benefits claim. The first intrastate claim filed for extended benefits in a new extended benefits period by a claimant in state having extended benefits provisions in its law. Each time such provisions become effective it is considered a new extended benefit period. Such first claims will include those that become effective, without any break in the benefit series, for the week following the week in which regular benefits are exhausted or are terminated by the end of the benefit year.

(16) New UI, UCFE, or UCX claim. A request for determination of insured status for purposes of establishing a new benefit year.

(17) Reopened claim. The first continued claim in a second or subsequent series of claims in a benefit year when no additional claim is reportable. An application for determination of eligibility for benefits and that certifies to the beginning date of a period of unemployment that falls within a benefit year previously established for which a continued claim or claims may be filed and which follows a break in a previously established claim, due to illness, disqualification, unavailability, or failure to report for any reason other than reemployment.

(18) Second benefit year claim. A new claim with an effective date for a second benefit year that is filed within 180 calendar days following the last week of the individual's previous benefit year. The individual is notified of the expiration of the previous benefit year.

(19) Transitional claim. Reserved.

(20) Valid UI, UCFE or UCX claim. A new claim on which a determination has been made that the individual has met the wage or employment requirements (and, under some laws, other eligibility conditions) to establish a benefit year.

**24.1(10)** *Claimant.*

*a.* An individual who has filed a request for determination of insured status or a new claim, or

*b.* An individual who has filed an initial claim unless the claim is found to be invalid or the benefit year has expired.

**24.1(11)** *Compensable week.* A week for which benefits have been claimed.

**24.1(12)** *Covered worker.* An individual who has earned wages in insured work.

**24.1(13)** *Department.* The department of workforce development, the chief executive officer of which is the director, who is appointed by the governor with the approval of two-thirds of the members of the senate. The director is responsible for administering Iowa Code chapter 96.

**24.1(14)** *Determination.*

*a. Benefit determination.* A decision with respect to a request for determination of insured status, a notice of unemployment, or a claim for benefits.

*b. Initial determination.* The first determination with respect to a claim or a request for determination of insured status.

*c. Monetary determination.* A determination as to whether an individual meets the employment requirements necessary for the receipt of benefits; and, if so, such individual's weekly benefit amount and maximum benefit amount.

*d. Nonmonetary determination.* A determination as to whether a claimant is barred from receiving benefits for reasons other than those affecting the claimant's insured status.

*e. Redetermination.* A determination made with respect to a claimant after reconsideration by the initial determining authority.

*f. Status determination.* A determination as to whether an employing unit is a subject employer and whether service performed for it constitutes employment as defined under a state employment security law.

**24.1(15)** *Disqualification provisions.* Those provisions of a state employment security law that set forth the conditions that bar an individual from receiving benefits for a specified period or cancel or reduce the individual's benefits or credits.

**24.1(16)** *Employment security law.* Iowa Code chapter 96.

**24.1(17)** *Fact-finding interview.* A discussion between interested parties and a department representative for the purpose of obtaining from the claimant a statement regarding a specific eligibility or disqualification issue.

**24.1(18)** *Insured unemployment.* Unemployment during a given week for which benefits are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.

**24.1(19)** *Insured work.* Employment, as defined in a state employment security law, performed for a subject employer, or federal employment as defined in the Social Security Act.

**24.1(20)** *Insured worker.* An individual who has had sufficient insured work in such individual's base period to meet the employment requirements for receipt of benefits under a state employment security law.

**24.1(21)** *Liable state.* Any state against which a worker claims benefits through the facilities of a workforce development center or the job service division of another (agent) state.

**24.1(22)** *Maximum benefit amount.* The maximum total amount of benefits an individual may receive during the individual's benefit year.

**24.1(23)** *Opening.* A single job for which a workforce development center has on file a request to select and refer an applicant or applicants.

**24.1(24)** *Partial benefits.* Benefits payable to an individual for a week of partial unemployment.

**24.1(25)** *Partial earnings allowance.* The amount of earnings that are disregarded in calculating a claimant's benefit for a week.

**24.1(26)** *Part-time worker.* See Iowa Code section 96.3.

**24.1(27)** *Placement.* An acceptance by an employer of a person for a job as a direct result of workforce development center activities, provided the employment office has completed all of the following four steps: receipt of an order, prior to referral; selection of the person to be referred without designation by the employer of any particular individual or group of individuals; referral; and verification from a reliable source, preferably the employer, that a person referred has been hired by the employer and has entered on the job.

**24.1(28)** *Qualifying wages.* The amount of wages a worker must have earned in insured work within a specified period in order to be an insured worker. See also benefit eligibility conditions.

**24.1(29)** *Referral.* The act of arranging to bring to the attention of an employer (or another workforce development center) the qualifications of an applicant who is available for a job opening on file for which the applicant has been selected by a workforce development center.

**24.1(30)** *Registration.* The process of applying for work through an office of the department of workforce development.

**24.1(31)** *Request for determination of insured status.* A request by an individual for a determination of insured status.

**24.1(32)** *Separations.* All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

*a. Layoff.* A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

*b. Quit.* A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

*c. Discharge.* A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

*d. Other separation.* Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

**24.1(33)** *Social security number.* The identification number assigned to an individual by the Social Security Administration under the Social Security Act.

**24.1(34)** *Taxable wages.* Wages subject to contribution under a state employment security law, or wages subject to tax under the federal Unemployment Tax Act.

**24.1(35)** *Total unemployment.* See week of unemployment.

**24.1(36)** *Verification.* The determination from a reliable source, preferably the employer, whether an applicant referred by a workforce development center has been hired by the employer and has entered on the job. In the case of applicants referred to seasonal agricultural openings, verification is considered complete when it is confirmed that a referred worker has been hired, even though confirmation of the worker's entry on the job may be lacking.

**24.1(37)** *Wage credits.* Wages earned in insured work.

**24.1(38)** *Week of unemployment.* A week during which an individual performs no work and earns no wages, except as indicated and has earnings that do not exceed the earnings limit.

This rule is intended to implement Iowa Code sections 96.3(5), 96.3(7), 96.4(3), 96.5(5)*"c,"*96.6, 96.7(2)*"a"*(2), 96.11, 96.1A and 96.23.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.2(96) Procedures for workers desiring to file a claim for benefits for unemployment insurance.**

**24.2(1)** Filing a benefit claim.

*a.* In order to establish a benefit year during which an individual may receive unemployment benefits, the individual, once separated from employment, must file an initial claim, verify their identity, and register for work. The claim may be filed electronically or by other means prescribed by the department. A claim filed in accordance with this rule is considered filed as of Sunday of the week in which the claim is filed.

*b.* When filing an initial claim for benefits, an individual must provide the following information to the department:

(1) The name and complete mailing address of the individual's last employing unit or employer.

(2) Work history for all employers within the individual's base period.

(3) The location of the last job.

(4) The last day of work.

(5) The reason for separation from work.

(6) Certification that the individual is unemployed.

(7) Certification that the individual registers for work.

(8) The individual's last occupation.

(9) Number, full name, social security number, date of birth, and relationship of any dependents claimed.

1. *"Spouse"* is defined as an individual who does not earn more than $120 in gross wages in one week. The reference week for this monetary determination is the gross wages earned by the spouse in the calendar week immediately preceding the claim's effective date.

2. *"Dependent"* means an individual who has been claimed for the preceding tax year on the claimant's income tax return. The same dependent may not be claimed on two separate monetarily eligible concurrent established benefit years. An individual may not claim a spouse as a dependent if the spouse has listed the claimant as a dependent on a current claim.

(10) The individual's social security number and alien registration number, if applicable.

(11) Such other information as requested by the department.

*c.* All claimants on an initial claim must state that they are registered for work and list their principal occupation. A group code will be assigned to the claimant to control the type of registration that is made. Code assignments are based on all facts obtained at the time of the claim filing. A group code change can be made at any time during the benefit year if additional information is obtained by the agency. The group codes are:

(1) Group "3" claimants are those "temporarily unemployed" as defined in Iowa Code section 96.1A(37)*"c."* After a period of temporary unemployment, claimants in this group are reviewed for placement in group "5" or "6."

(2) Group "4" claimants are those individuals who have left employment in lieu of exercising their right to bump or oust a fellow employee with less seniority or priority from the fellow employee's job. Group "4" claimants have only the search for work provision of Iowa Code section 96.4(3) and the disqualification provision for failure to apply for or to accept suitable work of Iowa Code section 96.5(3) waived. The group "4" code does not apply to weeks claimed under the extended benefit or federal supplemental compensation programs.

(3) Group "5" claimants are those individuals who are members of unions, trades, or professionals having their own placement facilities. Claimants assigned to this group will be registered for work. A paid-up membership must be maintained, and weekly contact to check for available work is required. Loss of membership will result in an assignment to group "6."

(4) Group "6" claimants are those individuals who do not otherwise meet the qualification group code "3," "4," or "5." This group must complete and document re-employment activities, as established by the department.

(5) Group "7" claimants are workers who are employed on a reduced workweek with an employer who is under a department-approved voluntary shared work contract. This group pertains to those individuals who worked full- or part-time and will again work full- or part-time if the individuals' employment, although temporarily suspended, has not been terminated. Once the contract expires, claimants in this group are reviewed for placement in group "3," "4," "5," or "6."

(6) Group "8" claimants are workers who are part of a federally declared emergency. Once the emergency period expires, claimants in this group are reviewed for placement in group "3," "4," "5," or "6."

(7) Nothing in this rule shall be construed as prohibiting an authorized representative of the department from requiring claimants for unemployment insurance benefits to avail themselves of workforce development center referral and counseling services if deemed beneficial and necessary to obtain prompt reemployment, nor shall anything in this rule be construed to deny referral or counseling service to claimants for unemployment insurance benefits.

*d.* In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual must report as directed by the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

(1) An individual who files a weekly continued claim will have the benefit payment automatically deposited weekly on a debit card specified by the department or to an account specified by the claimant.

(2) The department retains the ultimate authority to choose the method of reporting and payment.

*e.* After the initial claim has been filed, the claimant will receive a notice of monetary eligibility. If the claimant is eligible for benefits, this notice will state the date on which the benefit year will begin, the amount per week, and the maximum amount for which the claimant is eligible.

*f.* No benefit payment is allowed until the individual claiming benefits has completed a continued claim online or as otherwise directed by the department.

(1) The claim must be submitted between 8 a.m. on the Sunday following the Saturday of the weekly reporting period and not later than close of business on the Friday following the weekly reporting period.

(2) An individual using the weekly continued claim system is to personally file the claim on the system unless the individual is disabled and has received prior approval from the department.

(3) The claim must include the following:

1. That the individual continues the claim for benefits;

2. That except as otherwise indicated, during the period covered by the claim, the individual was fully or partially unemployed, earned no gross wages and received no benefits, and was able and available for work;

3. That the individual has performed a minimum of four work search activities and documented and reported each activity to the department.

- At least three of the four work search activities for the purpose of this paragraph shall consist of one of the following:
  - Applying for a potential job opening by submitting a resume or application through any of the following means:
    - Online.
    - In person.
    - Electronic mail.
    - Facsimile.
    - Mail.
  - Completing a civil service examination.
- Additional work search activities for the purpose of this paragraph consist of any of the following:
  - Registering with a placement facility of a school or college.
  - Interviewing for a job virtually, in person, or at a job fair.
  - Attending an employment workshop organized or approved by the department, which may include completing an online or in-person job search workshop, job club, or job search networking meeting.
  - Attending a job fair sponsored or approved by the department.
  - Attending a scheduled career networking meeting with the department.
  - With the assistance and guidance of the department, completing a reemployment plan, which may include completing career direction research or work such as a job search plan or a targeted employer list.
  - Participating in job search counseling with a department career planner.
  - Attending an appointment with a core program partner authorized by the federal Workforce Innovation and Opportunity Act, Public Law 113-128.
  - Participating in online or in-person mock interviews organized or approved by the department.
  - Completing career-related assessment approved by the department and reviewed with a department career planner.

4. That the individual understands there are penalties for false statements in connection with the claim;

5. That the individual has reported any job offer received during the period covered by the claim;

6. That the individual understands the individual's responsibility to review the claim records to ensure there is no delay in filing the weekly claim to remain in continuous reporting status. Failure to file claims each week will require a claimant to submit a claim application to reactivate the claim;

7. Other information required by the department.

*g.* Effective starting date for the benefit year.

(1) Filing for benefits is effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual files a claim for benefits.

(2) The claim may only be backdated prior to the first day of the calendar week in which the claimant does report and file a claim if the claimant filed an interstate claim against another state that has been determined as ineligible.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating is not allowed at the change of a calendar quarter if the backdating

would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

*h.* An individual is entitled to partial benefits for partial unemployment as per Iowa code section 96.1A(37)*"b."* If the individual has been placed on reduced employment the individual may be entitled to partial benefits and should file a claim in accordance with the instructions pertaining to the partial claims procedure.

*i.* Any individual who is disqualified for benefits because of the individual's failure to report may appeal to the department for the right to establish good cause for failure to report because of extraordinary circumstances. A representative of the department may deny the request, and the decision may be appealed to an administrative law judge for a hearing and decision on the merits. If the petition is allowed, the petitioner will be allowed to file a claim for and receive full benefits for each week for which such claim is filed, if otherwise eligible.

**24.2(2)** Filing a claim for unemployment insurance benefits (not applicable to interstate claims).

*a.* A notice of claim filing, which includes the name and social security number of the individual claiming benefits, will be sent to each base period employer on record and the last employer if different than the base period employer unless the separation issue has previously been adjudicated.

*b.* Even though the claims taker may believe that the claimant cannot meet the eligibility conditions established by statute, the claims taker will in no instance refuse to accept a claim from any unemployed individual. If the claimant elects to file a claim, even though the claimant's eligibility may be questionable, the claim will be accepted without hesitance. The claimant may be required to provide adequate proof of identification such as a driver's license, proof of citizenship, car registration, union membership card or supply personally identifying information.

*c.* If a claim filed in a previous quarter was ineligible because of no wage records or lack of qualifying earnings, a benefit year has not been established and a new claim will be taken. A new claim should not be taken if the claimant previously filed an ineligible claim in the same quarter unless the claimant insists on filing after being advised of ineligibility. The claims taker will notify the claimant that another claim filed in the same quarter would also be ineligible because additional wage credits (if any) would not be available until a subsequent quarter. The claimant should be advised to file a new claim during the first full week of the next calendar quarter.

*d.* If the check of the files does not disclose a previous claim and the claimant states that a claim has not been filed during the past year, a new claim will be taken.

*e.* Partially unemployed claims.

(1) A partially unemployed individual will:

1. File a claim for benefits in the same manner as an initial claim for unemployment insurance.
2. Report all wages that are earned for each week benefits are claimed.

(2) A claimant in a continuous reporting status, employed with the same employer, may exceed the claimant's weekly benefit amount plus $15 for four consecutive weeks before the individual is required to file an additional claim for benefits.

*f.* If the check of the files does not disclose a monetarily valid claim in another state, a new claim will be taken.

**24.2(3)** Filing a claim for unemployment insurance benefits (interstate only).

*a.* All interstate claimants must file an Iowa claim.

*b.* When the department is acting as an agent for another state unemployment insurance agency with respect to the filing of an initial claim for benefits, the interstate claimant must complete and file an Initial Interstate Claim unless otherwise directed by the interstate handbook for interstate claims-taking provided by the Employment and Training Administration of the United States Department of Labor.

**24.2(4)** Cancellation of unemployment insurance claim.

*a.* An individual may direct a request for cancellation of an unemployment insurance claim to the benefits bureau of the unemployment insurance services division. The statement must include the specific

reason for the request and contain as much pertinent information as possible so that a decision can be made. A notice with the result of the request will be sent.

*b.* A cancellation request that is the result of employer coercion or intimidation will be denied and the employer may be subjected to serious misdemeanor charges.

*c.* If a cancellation request is received within the ten-day protest period and before payment is made, the benefits bureau may upon review cancel the claim for the following reasons:

(1) The individual found employment or returned to regular employment within the protest period.

(2) Cancellation would allow the individual to refile at the change of a calendar quarter to obtain an increase in the weekly or maximum benefit amount or the individual would receive more entitlement from another state.

(3) The individual filed a claim in good faith under the assumption of being separated and no actual separation occurred.

(4) The individual did not want to establish a benefit year because of eligibility for a low weekly or maximum benefit amount.

*d.* Other valid reasons for cancellation whether or not ten-day protest period has expired.

(1) The individual has an unexpired unemployment insurance claim in another state and is eligible for a remaining balance of benefits.

(2) The individual received erroneous information regarding entitlement or eligibility to unemployment insurance benefits from an employee of the department.

(3) The individual has an unexpired railroad unemployment insurance claim with a remaining benefit balance that was filed prior to the unemployment insurance claim.

(4) The individual exercises the option to cancel a combined wage claim within the ten days allowed by federal regulation.

(5) The individual has previously filed a military claim in another state or territory. Wages erroneously assigned to Iowa must be deleted and an interstate claim filed.

(6) Federal wages have previously been assigned to another state or territory or are assignable to another state or territory under federal regulation. Federal wages erroneously assigned to Iowa must be deleted and the appropriate type of claim filed.

(7) If the Iowa wages are erroneous and deleted, and the wages from one other state were used, the claim shall be canceled and the wages returned to the transferring state.

*e.* If a claim is canceled and becomes final with no appeal being filed, a valid claim with Iowa as the paying state may not be reestablished with the same effective date.

*f.* If it is determined a claim has been filed under an incorrect social security number, the claim will be voided rather than canceled.

*g.* All unemployment insurance claims canceled will be clearly identified as such and the administrative record of the individual's file shall be destroyed three years after final action.

This rule is intended to implement Iowa Code sections 96.3(3), 96.3(4), 96.4(1), 96.4(3), 96.5(1) *"h,"*96.5(3), 96.6(1), 96.6(2), 96.15, 96.16, 96.1A and 96.20.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.3(96) Social security number needed for filing.** A claim will not become valid until the identity of the claimant has been verified by the department.

**24.3(1)** If the agency is unable to verify the claimant's identity in the claim application, the department will notify the claimant, who must provide approved documents, one of which must contain a social security number. The department will determine the approved documents required to verify identity. The list of approved documents can be found at the nearest local workforce center or online.

**24.3(2)** The claimant's identity will not be considered verified until approved documents have been provided. The claim will remain locked, and the claimant will remain ineligible for benefits, until the claimant provides approved documents.

**24.3(3)** Approved documents must be provided or postmarked by the due date provided on the notification. Once the approved documents are verified, the claim will be unlocked for all weeks following the most recent effective date of the claim application.

**24.3(4)** If a claimant provides approved documents after the due date, the claimant will be eligible, provided there are no other outstanding issues with the claim, as of the Sunday of the week the claimant's identity was verified.

This rule is intended to implement Iowa Code section 96.6.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.4(96) Benefit rights information.**

**24.4(1)** *Intrastate benefits.* Benefit rights information is available online to explain those provisions in the law and rules that govern the individual's monetary eligibility, rights and responsibilities under Iowa's unemployment insurance program.

**24.4(2)** *Interstate benefits.* Benefit rights information is not required for each individual who files an initial claim for interstate benefits. Claimants will be advised to contact the liable state that will provide additional information explaining the individual's rights, benefits, and responsibilities under the liable state's unemployment insurance program.

This rule is intended to implement Iowa Code section 96.4.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.5(96) Mass separation—definition and procedure.**

**24.5(1)** A mass separation is a layoff of all or a large number of workers, either permanently, indefinitely, or for a specific duration by one or more employers in the same area, at approximately the same time, and for the same common reason.

*a.* Special procedures for mass claim filing may be applied by the department, and the procedures may include taking claims at a designated site or utilizing an electronic mass claim entry form.

*b.* If outside facilities must be obtained for a mass layoff, the order of precedence for obtaining such facilities will be as follows:

(1) Interested employer involved.

(2) Bona fide union representing the workers.

(3) Public facility (e.g., courthouse, city hall).

**24.5(2)** To enable workforce development centers to make the preliminary arrangements for mass claim taking, the major employers in the area should notify the local office in advance, as soon as they know that a mass separation will take place. The workforce development center will coordinate between the affected parties. This information should include:

*a.* The number of workers to be separated.

*b.* The date of separation and, if staggered, the number on each date.

*c.* Reason for layoff.

*d.* Its probable duration.

*e.* If recall is anticipated, the date it will begin and, if staggered, the number to be recalled on each date.

*f.* If the layoff is for vacation or inventory purposes, the employer shall follow the vacation pay procedure in rule 871—24.12(96).

This rule is intended to implement Iowa Code section 96.6(1).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.6(96) Reemployment services and eligibility assessment procedure.**

**24.6(1)** The department will provide a program that consists of providing reemployment services.

**24.6(2)** Purpose. The eligibility assessment program is used to accelerate the individual's return to work and systematically review the individual's efforts towards the same goal.

**24.6(3)** Reemployment services and eligibility assessment may include but are not limited to the following:

*a.* An assessment of the claimant's skillset, work history, and interest.

*b.* Employment counseling regarding reemployment approaches and plans.

*c.* Job search assistance and job placement services.

*d.* Labor market information.

*e.* Job search workshops or job clubs and referrals to employers.

*f.* Résumé preparation.

*g.* Other similar services.

**24.6(4)** As part of the initial intake procedure, each claimant is to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

**24.6(5)** The referral of a claimant and the provision of reemployment services is subject to the availability of funding and class size limitations.

**24.6(6)** A claimant must participate in reemployment services when referred by the department unless the claimant has previously completed such training or services or demonstrates to the department of other good cause prior to the appointment or service.

*a.* Failure to participate without good cause will disqualify the claimant from receiving benefits until the claimant participates in the reemployment services or eligibility assessment.

*b.* Good cause for failure to participate is an important and significant reason that a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant.

**24.6(7)** Eligibility assessment procedure.

*a.* Before an individual has claimed five weeks of intrastate benefits, the workforce development center will receive a computer-selected list of individuals claiming benefits within the target population for review.

*b.* No eligibility assessment will be performed on an individual unless monetary eligibility and nonmonetary eligibility are established.

*c.* Once selected for an initial or subsequent eligibility assessment, claimants are required to participate.

*d.* A Notice to Report will be sent by the workforce development center to an individual who is in an active status at the time of its printing. If the individual does not respond, the department will issue an appropriate failure to report decision and lock the claim to prevent payment.

*e.* Selected claimants must participate in staff-assisted services for the initial assessment.

**24.6(8)** Conducting the first eligibility assessment interview.

*a.* All available evidence will be examined to detect potentially disqualifying issues.

*b.* The individual's need for advice, assistance or instructions will be determined and conveyed to the individual.

*c.* The interview will convey to the individual the requirements that must be satisfied to maintain eligibility.

*d.* This advice, assistance or instruction constitutes an understanding and agreement between the individual and the unemployment insurance representative at the conclusion of the interview regarding the individual's willingness and ability to eliminate any barriers to obtaining reemployment that otherwise would result in referral for adjudication.

*e.* The individual will be advised of what constitutes an acceptable effort to obtain reemployment in accordance with state policy, with consideration for local labor market information and the individual's occupation.

*f.* The final objective of the interview is to determine whether a subsequent interview is needed. This determination is based on expected return to work date, job openings in the area, local labor market conditions, and other relevant factors.

This rule is intended to implement Iowa Code section 96.4(7).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.7(96) Workers' compensation or indemnity insurance exclusion and substitution.**

**24.7(1)** An individual who has received workers' compensation under Iowa Code chapter 85 during a healing period or temporary total disability benefits or indemnity insurance benefits for an extended period of time and who has insufficient wage credits in the base period may qualify for unemployment insurance benefits as explained in Iowa Code section 96.23.

**24.7(2)** An individual may receive workers' compensation during a healing period or temporary total disability benefits or indemnity insurance benefits until the individual returns to work or is medically

capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury.

**24.7(3)** The department shall make an initial determination of eligibility for unemployment insurance benefits as explained in Iowa Code section 96.23 using the following criteria for allowances and disqualifications.

*a. Allowances.* When the allowance criteria are met, the department will always exclude and substitute at least three quarters of the base period if the individual received workers' compensation or indemnity insurance benefits in:

(1) Four base period quarters with no earnings in at least two of the quarters and the individual lacks qualifying earnings; the department will exclude and substitute all four quarters of the base period.

(2) Three no earnings base period quarters, with or without earnings in the fourth quarter, the fourth quarter remains in the base period and the department will exclude and substitute only three quarters in the base period.

*b. Disqualifications.* The request for retroactive substitution of base period quarters will be denied if the individual received workers' compensation or indemnity insurance benefits in:

(1) At least three base period quarters but the individual is currently monetarily eligible with an established weekly and maximum benefit amount.

(2) At least three base period quarters and the individual has base period wages in three or more of the base period quarters, but the claim lacks qualifying earnings.

(3) Less than three base period quarters.

**24.7(4)** The individual will be asked to complete the Affidavit and Questionnaire, which requests the following information:

*a.* Individual's name and social security number.

*b.* Name of employer responsible for the workers' compensation benefits or the indemnity insurance benefits.

*c.* Names of employers and periods worked for the period preceding the workers' compensation or the indemnity insurance pay period.

*d.* Name of the workers' compensation or indemnity insurance carrier or, if self-insured, the name of the employer.

*e.* Specify whether the wages determined to be in the individual's base period were or were not received for working in insured work during the base period.

**24.7(5)** The department will provide the individual with the monetary redetermination. When the claim for benefits is determined to be monetarily eligible for payment, the employer responsible for the workers' compensation or the indemnity insurance benefits will be notified and will be responsible for the charges on the redetermined claim that are solely due to wage credits considered to be in the individual's base period due to the exclusion and substitution of calendar quarters. The employer responsible for the workers' compensation or indemnity insurance benefits maintains the right to protest as provided in rule 871—17.8(96).

This rule is intended to implement Iowa Code section 96.23.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.8(96) Notifying employing units of claims filed, requests for wage and separation information, and decisions made.**

**24.8(1)** Issuing a notice of the filing of an initial claim or a request for wage and separation information to employing units.

*a.* Notice of Claim and Request for Wage and Separation Information shall be:

(1) Addressed to the address or addresses as requested by the employing unit and agreed to by the department, to the business office of the employing unit where the records of the individual's employment are maintained, or to the employing unit's place of business where the individual claiming benefits was most recently employed; and

(2) Sent electronically via the United States Department of Labor State Information Data Exchange System (SIDES).

*b.* A notice of the filing of an initial claim or a request for wage and separation information will be sent to an owner, a partner, an executive officer, a departmental manager or other responsible employee of the employing unit or to an agent designated to represent the employing unit in unemployment insurance matters.

(1) An agent who has been authorized to represent an employing unit in unemployment insurance matters may be furnished information from the files of the department to the extent designated in the authorization and in the same manner and to the same extent that the information would be furnished to the employing unit.

(2) The appointment of an agent to act for the employing unit and to receive documents and reports in no way abrogates the right of department representatives to deal directly with the employing unit when it appears that this will best serve the interest of the parties.

**24.8(2)** Employing units' response to a notice of the filing of an initial claim or a request for wage and separation information and protesting benefit payment.

*a.* The employing unit that receives a Notice of Claim or Request for Wage and Separation Information must, within ten days of the date of the notice or request, submit to the department wage or separation information that affects the individual's rights to benefits, including any facts disclosing that the individual separated from employment voluntarily and without good cause attributable to the employer or was discharged for misconduct in connection with employment.

*b.* The employing unit may protest the payment of benefits if the protest is postmarked within ten days of the date of the notice of the filing of an initial claim. If the tenth day falls on a Saturday, Sunday or holiday, the protest period is extended to the department's next working day. If the employing unit has filed a timely report of facts that might adversely affect the individual's benefit rights, the report will be considered as a protest to the payment of benefits.

*c.* If the employing unit protests that the individual was not an employee and it is subsequently determined that the individual's name was changed, the employing unit will be deemed to have not been properly notified and the employing unit will again be provided the opportunity to respond to the notice of the filing of the initial claim.

*d.* The employing unit has the option of notifying the department under conditions that, in the opinion of the employing unit, may disqualify an individual from receiving benefits. The notification may be submitted electronically.

(1) The Notice of Separation must be postmarked or received before or within ten days of the date that the Notice of Claim was mailed to the employer. If the tenth day falls on Saturday, Sunday or holiday, the protest period is extended to the next working day of the department. If a claim for unemployment insurance benefits has not been filed, the Notice of Separation may be accepted at any time.

(2) On the Notice of Separation, the employer must indicate the dates of the last day worked, the separation date and the reason the worker was separated.

**24.8(3)** Completing and signing of forms by an employing unit that may affect the benefit rights of an individual.

*a.* A notice of separation, and any response by an employing unit or its authorized agent to a notice of the filing of an initial claim or a request for wage and separation information, is accomplished by properly completing the form or computerized format provided by the department.

*b.* The form must be signed by, or the computerized form completed by, an authorized agent, individual proprietor, partner, executive officer, department manager or other responsible employee who handles employee information, or who has direct knowledge of the reasons for the individual's separation from employment.

*c.* Failure to timely submit any notice or response requested by the department will result in the department basing its determination of the individual's rights to benefits on the information available.

**24.8(4)** Issuing determinations, redeterminations and decisions to employing units.

*a.* An employing unit that has filed a timely response or protest to the notice of the filing of an initial claim will be notified in writing of the determination as to the individual's rights to benefits. If an individual's employing unit has submitted timely information affecting the individual's rights to benefits, including facts disclosing that the individual voluntarily quit without good cause attributable to

the employing unit or was discharged for misconduct in connection with employment, the employing unit will be notified in writing of the department's decision as to the cause of termination of the individual's employment.

*b.* Any notice of determination or decision must contain a statement establishing the employing unit's right of appeal.

*c.* Determinations regarding an individual's right to benefits, the cause of termination of the individual's employment, an employing unit's experience record and correspondence related thereto will be sent to:

(1) The address of the employing unit to which the notice of the filing of an initial claim was sent; or

(2) If the employing unit in its response or protest to the notice of the filing of an initial claim furnishes the address of an agent for the employing unit and requests that further documents and correspondence be sent to the agent, the department representative will comply, and the department has approved authorization (power of attorney) designating the agent to represent the employing unit.

This rule is intended to implement Iowa Code section 96.6.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.9(96) Determination of benefit rights.**

**24.9(1)** *Monetary determinations.* When an initial claim for benefits is filed, the department will send to the individual claiming benefits a notification consisting of a statement of the individual's weekly benefit amount, total benefits, base period wages, and other data pertinent to the individual's benefit rights.

**24.9(2)** *Fact-finding.* Each interested party will be afforded the opportunity to provide information to the department regarding pending eligibility matters. A telephone fact-finding interview may be scheduled upon request of either interested party. Interested parties may request an in-person fact-finding interview as a reasonable accommodation under the federal Americans with Disabilities Act of 1990, as amended, or the Iowa Civil Rights Act of 1965, as amended. The department reserves the right to call any interested party in for an in-person fact-finding interview.

**24.9(3)** *Notice of benefit determination.*

*a.* This notice of benefit determination will be promptly given to each claimant and to any employer whose employment relationship with the claimant, or the claimant's separation therefrom, involves actual or potentially disqualifying issues relevant to the determination. If a claimant is ineligible, this notice will advise of the reason.

*b.* The department will promptly notify the claimant or any other party filing the request of its decision via a notice of benefit determination that specifies the claimant's appeal rights. Unless the claimant or any such other party entitled to notice, within ten days after such notification was sent to such claimant's last-known address, files with the department a written request for a review of or an appeal from such determination, such determination shall be final, and benefits will be paid or denied in accordance therewith.

**24.9(4)** *Reconsideration of determination.*

*a.* The department, upon receiving a timely written request for reconsideration or, on its own initiative and based on newly discovered facts it may have in its possession or may acquire, and that may affect the validity of the original determination, may affirm, modify, or reverse the prior decision, or refer the claim to an administrative law judge. In such case, an unemployment insurance representative will examine the facts or request and promptly issue a redetermination. The redetermination of the monetary record will constitute a final decision unless the individual files a written appeal to an administrative law judge within ten days of the date on the redetermination specifying the grounds of objection.

*b.* For the purposes of this subrule, the appeal period is extended to the next working day of the department if the tenth day falls on a Saturday, Sunday, or holiday.

**24.9(5)** *Nonmonetary determinations.*

*a.* When a protest of an initial claim for benefits is filed, the department will mail to the individual claiming benefits, and the most recent or any other base period employing unit, an Unemployment Insurance Decision, which affects the individual's right to benefits.

*b.* When an issue could result in a decision detrimental to an interested party, the interested party will be afforded the opportunity to present facts and evidence that may include an informational fact-finding

interview scheduled by the department. An interested party, at the party's expense and with the party's equipment, may record (video or audio) the proceedings. All participants will be informed of the recording of the interview, which must not be disruptive or distracting.

*c.* Interested parties are afforded review, reconsideration, and appeal rights in the same manner as those provided for monetary determinations as established in subrule 24.9(4).

This rule is intended to implement Iowa Code section 96.6.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.10(96) Employer and employer representative participation in fact-finding interviews.**

**24.10(1)** "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6(2), means submitting detailed factual information of the quantity and quality that if unrebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.24(7). Written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

**24.10(2)** "A continuous pattern of nonparticipation in the initial determination to award benefits," pursuant to Iowa Code section 96.6(2), as the term is used for an entity representing employers, means on 25 or more occasions in a calendar quarter the entity files appeals after failing to participate. Appeals filed but withdrawn before the day of the contested case hearing will not be considered in determining if a continuous pattern of nonparticipation exists. The division administrator will notify the employer's representative in writing after each such appeal.

**24.10(3)** If the division administrator finds that an entity representing employers as defined in Iowa Code section 96.6(2) has engaged in a continuous pattern of nonparticipation, the division administrator will suspend the representative for a period of up to six months on the first occasion, up to one year on the second occasion and up to ten years on any subsequent occasion. Suspension by the division administrator constitutes final agency action and may be appealed pursuant to Iowa Code section 17A.19.

**24.10(4)** "Fraud or willful misrepresentation by the individual," as the term is used for claimants in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6(2), means providing knowingly false statements or knowingly false denials of material facts for the purpose of obtaining unemployment insurance benefits. Statements or denials may be either oral or written by the claimant. Inadvertent misstatements or mistakes made in good faith are not considered fraud or willful misrepresentation.

This rule is intended to implement Iowa Code section 96.3(7)*"b."*

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.11(96) Deductible and nondeductible payments.**

**24.11(1)** *Procedures for deducting payments from benefits.* Any payment defined under subrules 24.13(2) and 24.13(3) made to an individual claiming benefits will be deducted from benefits in accordance with the following procedures until the amount is exhausted; however, vacation pay that is deductible in the manner prescribed in rule 871—24.12(96) will be deducted first when paid in conjunction with other deductible payments described in this rule unless otherwise designated by the employer. The individual claiming benefits is required to designate the last day paid that may indicate payments made under this

rule. The employer is required to designate on the Notice of Claim response the amount of the payment and the period to which the amount applies. If the individual or the employer does not designate the period to which the amount of the payment applies, the unemployment insurance representative will determine the days following the effective date of the claim to which the amount of the payment applies by dividing the amount of the payment by the individual's average weekly wage during the highest earnings quarter of the individual's base period. The amount of any payment under subrule 24.13(2) will be deducted from the individual's weekly benefit amount on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 871—24.14(96). If the claimant received vacation pay under rule 871—24.12(96), the procedure established in Iowa Code section 96.5(7)*"c"* will govern. The maximum number of days the vacation pay will be applied is five workdays following the separation date. The first day the vacation pay can be applied is the first workday after the separation. The amount of any payment under subrule 24.13(3) will be fully deducted from the individual's weekly benefit amount on a dollar-for-dollar basis.

**24.11(2)** *Deductible payments from benefits.* The following payments are considered as wages and are deductible from benefits on the basis of the formula used to compute an individual's weekly benefit payment provided in rule 871—24.14(96):

*a. Holiday pay.* However, if the employer does not pay holiday pay, the individual may request an underpayment adjustment from the department.

*b. Commissions.* The commission payment is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

*c. Incentive pay.* Incentive pay is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

*d. Strike pay.* Strike pay is only deductible when it is a payment received for services rendered and the individual is otherwise eligible for benefits.

*e. Remuneration other than cash.* The cash value of all remuneration payable in any medium other than cash, e.g. board, rent, housing, lodging, meals, or similar advantage, is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

*f. Stand-by pay.* When an individual is paid to hold oneself in readiness for a call to specific work for an employer but is not called, since the work is given to another, the payment is stand-by pay that is deductible from benefits when earned by the individual during the period in which the individual is claiming benefits.

*g. Tips or gratuity.* Tips or gratuity are only deductible when based on service performed by the individual during the period in which the individual is claiming benefits.

**24.11(3)** *Fully deductible payments from benefits.* The following payments are considered as wages, but are fully deductible from benefits on a dollar-for-dollar basis:

*a.* Wage interruption insurance payment. Any insurance payment received or due from wage interruption insurance because of fire, disaster, etc.

*b.* Excused personal leave. Excused personal leave, also referred to as casual pay or random pay, is personal leave with pay granted to an employee for absence from the job because of personal reasons. It is treated as vacation and fully deductible in the manner prescribed in rule 871—24.12(96).

*c.* Wages in lieu of notice, separation allowance, severance pay and dismissal pay.

*d.* Workers' compensation, temporary disability only. The payment is fully deductible with respect to the week in which the individual is entitled to the workers' compensation for temporary disability, and not to the week in which such payment is paid.

*e.* Pension, retirement, annuity, or any other similar periodic payment made under a plan maintained and contributed to by a base period or chargeable employer. An individual's weekly benefit amount shall only be reduced if the base period employer has made 100 percent of the contributions to the plan that is the same percentage as the percentage contribution of the base period or chargeable employer to the plan.

**24.11(4)** *Nondeductible payments from benefits.* The following payments are not considered as wages and are not deductible from benefits:

*a.* Self-employment income. However, the individual must meet the benefit eligibility requirements of Iowa Code section 96.4(3).

*b.* Bonuses. The bonus payment is only nondeductible when based on service performed by the individual before the period in which the individual is also claiming benefits.

*c.* Remuneration for work performed by the individual claiming benefits in exchange for county relief in the form of groceries, rent, etc.

*d.* Payment for unused sick leave.

*e.* National guard duty pay. This includes reserve unit drill pay for any branch of the armed services.

*f.* Supplemental unemployment benefit plans approved by the department. See 871—paragraph 16.3(1)*"e"* for criteria and employer procedure for obtaining department approval.

*g.* Pension to the blind.

*h.* Payment for terminal leave. Any payment received by military personnel for unused leave upon discharge.

*i.* Compensation for military service-connected disability from the department of veterans affairs.

*j.* Payments to the surviving spouse of a regular or disability pension based on the work of the deceased spouse.

*k.* Deferred wage compensation. Remuneration received by the individual for wages earned in a period prior to the individual's claim for benefits will not be deductible during the period in which the individual is claiming benefits.

*l.* Witness and jury fees. These fees are reimbursement for expenses and are not considered as wages.

*m.* Supplemental security income. This payment is nondeductible because it is financed by income taxes and not social security taxes and is based on need factors such as age, mental or physical disability, and personal income, and not on previous employment.

*n.* Federal social security benefit and social security disability payments.

*o.* Payments conditional upon the release of any rights.

*p.* Payments requiring the individual to work through a specific day to be eligible.

This rule is intended to implement Iowa Code sections 96.3(3), 96.5, 96.5(5), 96.11(1), and 96.1A.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.12(96) Vacation pay.**

**24.12(1)** If the employer properly notifies the department that an amount of vacation pay, either paid or owed, is to be applied to a specific vacation period, a sum equal to the wages of the individual for a normal workday shall be applied to the first and each subsequent workday of the designated vacation period until the amount of the vacation pay is exhausted, not to exceed five workdays. For the purposes of this rule, rule 871—24.13(96), and rule 871—24.12(96), the term "vacation pay" includes paid time off and annual leave payments.

**24.12(2)** If the employer fails to properly notify the department regarding the application of vacation pay to a specific vacation period, the vacation pay will be applied to the one-week period starting on the first workday following the last day worked as defined in subrule 24.16(4). However, if the individual does not claim benefits after layoff during the normal employer workweek immediately following the last day worked, then the entire amount of the vacation pay shall not be deducted from any week of benefits.

**24.12(3)** Unless otherwise specified by the employer, the amount of the vacation pay will be converted by the department to eight hours for a normal workday and five workdays for a normal workweek.

This rule is intended to implement Iowa Code section 96.5(7).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.13(96) Vacation pay procedure.**

**24.13(1)** The Notice of Claim, Request for Federal Wage and Separation Information, and Request for Wage and Separation Information on Federal Employment Additional Claim, which are returned by the employer for the purpose of notification of vacation pay, will be used as notification to the department that vacation pay is applicable. Upon receipt of these forms, the department will:

*a.* Compare the amount of vacation reported by the employer with the computer record. If there are any discrepancies that would affect the claimant's eligibility for unemployment insurance benefits for any

week claimed, the claimant will be afforded the opportunity to present facts and evidence. The department may then allow the employer to present additional facts and evidence. If the employer is afforded an opportunity to provide additional facts and evidence, the unemployment insurance representative will likewise afford the claimant the opportunity to present additional facts and evidence.

*b.* Consider all information submitted by the interested parties and issue to the employer and claimant the appropriate decision concerning the vacation pay. The department will then check the current status of the claim to ascertain if any weeks have been reported.

*c.* If the record shows that the claimant has not reported or claimed for some or all of the weeks indicated for the vacation period, take no further action on the weeks not claimed.

**24.13(2)** The claimant is instructed to only report vacation pay applicable to the five workdays following the last date worked and that vacation pay designated by the employer in excess of the vacation pay the claimant reported may result in an overpayment of benefits.

This rule is intended to implement Iowa Code section 96.5(7).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.14(96) Wage-earnings limitation.** Partial unemployment is defined in Iowa Code section 96.1A(37)*"b."* If an individual is partially unemployed, the formula for wage deduction is a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code sections 96.3, 96.4 and 96.1A.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.15(96) Benefit eligibility conditions.** To be eligible to receive benefits, the individual bears the burden of establishing, and the department must find, that the individual is able to work, available for work, and earnestly and actively seeking work.

**24.15(1)** *Able to work.* An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation.

*a. Illness, injury or pregnancy.* Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

*b. Interpretation of ability to work.* The law provides that an individual must be able to work to be eligible for benefits. This means that the individual must be physically able to work, not necessarily in the individual's customary occupation, but able to work in some reasonably suitable, comparable, gainful, full-time endeavor, other than self-employment, which is generally available in the labor market in which the individual resides.

**24.15(2)** *Available for work.* The availability requirement is satisfied when an individual is genuinely attached to the labor market (e.g. the individual is willing, able, and ready to accept suitable work that the individual does not have good cause to refuse). Under unemployment insurance laws, it is the availability of an individual who is tested, and the labor market is therefore described in terms of the individual. A labor market for an individual means a market for the type of service the individual offers in the geographical area in which the individual offers the service. It does not mean that job vacancies must exist. It means only that the type of services that an individual is offering is generally performed in the geographical area in which the individual is offering the services.

*a. Shift restriction.* The individual does not have to be available for a particular shift. If an individual is available for work on the same basis on which the individual's wage credits were earned and if after considering the restrictions as to hours of work, etc., imposed by the individual there exists a reasonable expectation of securing employment, then the individual meets the requirement of being available for work.

*b. Intermittent employment.* An individual cannot limit employability to only temporary or intermittent work until recalled by a regular employer.

*c. Jury duty.* The individual is considered available for work while serving on jury duty because time spent in jury service is not a personal service performed under a contract of hire in an employment

situation but rather a public duty required by law. Jury duty does not render the individual as employed and ineligible for benefits even though it may involve the individual full-time.

*d. Work release program while incarcerated.* For those individuals incarcerated in jail, the work release program usually does not meet the availability requirements of Iowa Code section 96.4(3), but the department will review any situation concerning an incarcerated individual who can meet the requirements of Iowa Code section 96.4(3).

*e. Available for part of week.* Each case is decided on its own merits. Generally, if the individual is available for the major portion of the workweek, the individual is considered to be available for work.

*f. On-call workers.*

(1) Substitute workers (e.g., post office clerks, railroad extra board workers) who hold themselves available for one employer and who do not accept other work, are not available for work within the meaning of the law and are not eligible for benefits.

(2) Substitute teachers. The question of eligibility of substitute teachers is subjective in nature and is determined on an individual case basis. The substitute teacher is considered an instructional employee and is subject to the same limitations as other instructional employees. As far as payment of benefits between contracts or terms and during customary and established periods of holiday recesses is concerned, benefits are denied if the substitute teacher has a contract or reasonable assurance that the substitute teacher will perform service in the period immediately following the vacation or holiday recess. A substitute teacher is not disqualified if the individual is able and available for work, making an earnest and active search for work each week, placing no restrictions on employment and is genuinely attached to the labor market.

(3) An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits from on-call work, such as a banquet worker, railway worker, or substitute school teacher, is not considered an unemployed individual within the meaning of Iowa Code section 96.1A(37)*"a"* and *"b."* An individual who is willing to accept only on-call work is not considered to be available for work.

*g. Leave of absence.* A leave of absence negotiated with the consent of both employer and employee is deemed a period of voluntary unemployment for the employee who is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee, the individual is considered laid off and eligible for benefits.

(2) If the employee fails to return at the end of the leave of absence and subsequently becomes unemployed, the individual is considered as having voluntarily quit and is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

*h. Effect of religious convictions on Sabbath day work.* An individual is considered as available for work if the precepts of the individual's religion prohibit work on the Sabbath. An individual who refuses to work on the Sabbath designated by the individual's religion because of conscientious observance of the Sabbath as a matter of religious conviction is also deemed to have good cause for refusing the work.

*i. Available for work.* To be considered available for work, an individual must at all times be in a position to accept suitable employment during periods when the work is normally performed. As an individual's length of unemployment increases and the individual has been unable to find work in the individual's customary occupation, the individual may be required to seek work in some other occupation in which job openings exist. If that does not seem likely to result in employment, the individual may be required to accept counseling for possible retraining or a change in occupation.

*j. Reasonable expectation of securing employment.* An individual may not be eligible for benefits if the individual has imposed limitations that leave the individual no reasonable expectation of securing employment. Restrictions may relate to type of work, hours, wages, location of work, etc., or may be physical restrictions.

*k. Corporate officers.* To be considered available, the corporate officer must meet the same tests of availability as are met by other individuals.

*l. Lawfully authorized work.* An individual who is not lawfully authorized to work within the United States is considered unavailable for work.

**24.15(3)** *Earnestly and actively seeking work.* Mere registration at a workforce development center does not establish that the individual is earnestly and actively seeking work. It is essential that the individual personally and diligently search for work. It is difficult to establish definite criteria for defining the words earnestly and actively. Much depends on the estimate of the employment opportunities in the area. The number of employer contacts that might be appropriate in an area of limited opportunity might be totally unacceptable in other areas. When employment opportunities are high an individual may be expected to make more than the usual number of contacts. Unreasonable limitations by an individual as to salary, hours or conditions of work can indicate that the individual is not earnestly seeking work. The department expects each individual claiming benefits to conduct themselves as would any normal, prudent individual who is out of work.

*a. Basic requirements.* An individual will be ineligible for benefits for any period for which the department finds that the individual has failed to make an earnest and active search for work. The department makes determinations on a case-by-case basis. Subject to the foregoing, applicable actions of the following kind are considered an earnest and active search for work if the department finds each constitutes a reasonable means of securing work by the individual:

(1) Applying with employers reasonably expected to have suitable openings.

(2) Registering with a placement facility of a school, college, or university if one is available in the individual's occupation or profession.

(3) Applying or testing for openings in the civil service of a governmental entity with reasonable prospects of suitable work for the individual.

(4) Responding to appropriate "want ads" for work that appear suitable to the individual if the response is made in writing, in person, or electronically.

(5) Any other action that the department finds to constitute an effective means of securing work suitable to the individual.

(6) No individual is denied benefits solely on the ground that the individual has failed or refused to register with a private employment agency or at any other placement facility that charges the job-seeker a fee for its services. However, an individual may count as one of the work contacts required for the week an in-person contact with a private employment agency.

(7) An individual is considered to have failed to make an effort to secure work if the department finds that the individual has followed a course of action designed to discourage prospective employers from hiring the individual in suitable work.

*b. Number of employer contacts.* "Earnestly and actively" may be interpreted in different manners, depending on the estimate of employment opportunities in an area. The number of employer contacts appropriate in an area of limited opportunities might be totally unacceptable in another area. The number of required contacts is dependent upon the condition of the local labor market, the duration of benefit payments, a change in the individual's characteristics, job prospects in the community, and other factors as the department deems necessary. Reemployment activities must be recorded as directed by the department.

*c. Exceptions.*

(1) Members of unions or professional organizations who normally obtain their employment through union or professional organizations are considered as earnestly and actively seeking work if they maintain active contact with the union's business agent or with the placement officer in the professional organization. A paid-up membership must be maintained if this is a requirement for placement service. The trade, profession, or union to which the individual belongs must have an active hiring hall or placement facility, and the trade, profession, or union must be the source customarily used by employers in filling their job openings. Registering with the individual's union hiring or placement facility is sufficient, except when all benefit rights to regular benefits are exhausted and Iowa is in an extended benefit period or similar program such as the federal supplemental compensation program. Mere registration at a union or reporting to a union hiring hall or registration with a placement facility of the individual's professional organization does not satisfy the extended benefit systematic and sustained effort to find work, and individuals complete reemployment activities.

(2) The requirement for seeking work is waived if all of the following conditions apply:

1. The individual is attached to a regular job or industry.

2. The individual is a high-skilled worker. For purposes of this numbered paragraph, "high-skilled worker" means a worker whose job or position requires licensing, credentials, or specialized training.

3. The individual is on a short-term temporary layoff. For purposes of this numbered paragraph, "short-term temporary layoff" means a layoff period of 16 weeks or less due to seasonal weather conditions that impacts the ability to perform work related to highway construction, repair, or maintenance with a specific return-to-work date verified by the employer.

4. The individual otherwise qualifies for unemployment insurance benefits.

*d. Week-to-week disqualification.* Disqualification due to failure to conduct reemployment activities is made on a week-to-week basis and is not permanent.

*e. Seniority rights.* An individual who fails to exercise seniority rights to replace another employee with less seniority has the work search requirement waived during a period of regular benefits. This waiver does not apply to individuals receiving extended benefits or similar federal program benefits.

*f. Search for work.*

(1) The group code is used to determine which individuals are required to make personal applications for work. Other factors, such as the condition of the local labor market, the duration of benefit payments, and a change in claimant characteristics, are also taken into consideration on a weekly basis.

(2) Individuals receiving partial benefits are exempt from making personal applications for work in any week they have worked and received wages from their regular employer. Individuals involved in hiring hall practices must keep in weekly touch with the business agent of that union in which they maintain membership. All other individuals must make contacts with such frequency as the department considers advisable, after considering job prospects in the community, the condition of the labor market and any other factors that may have a bearing on the individual's reemployment. A sincere effort must be made to find a job. A contact made merely for the sake of complying with the law is not good enough.

*g. Job search assistance.* Attendance at job search assistance classes, including reemployment services, that are sponsored by the department may be counted as one of the individual's reemployment activities for that week.

This rule is intended to implement Iowa Code section 96.4(3).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.16(96) Availability disqualifications.** The following are reasons for disqualifying a claimant for being unavailable for work:

**24.16(1)** An individual who is ill and presently not able to work due to illness.

**24.16(2)** An individual presently in the hospital. If there is a change in status, the individual is to renew the claim at once if unemployed.

**24.16(3)** If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work.

**24.16(4)** If the individual loses the means of transportation from the residence to the area of usual employment. However, an individual will not be disqualified for restricting employability to the geographic area of usual employment. More information is contained in subrule 24.20(7).

**24.16(5)** Full-time students devoting the major portion of their time and efforts to their studies except for students available to the same degree and to the same extent as when they accrued wage credits.

**24.16(6)** If an individual has a medical report on file submitted by a physician or a physician assistant, stating the individual is not presently able to work.

**24.16(7)** Where an individual devotes time and effort to becoming self-employed.

**24.16(8)** Where availability for work is unduly limited because of not having made adequate arrangements for child care.

**24.16(9)** The claimant requested and was granted a leave of absence.

**24.16(10)** Failure to report as directed to the department in response to a notice sent to the claimant.

**24.16(11)** If a claimant is in jail or prison.

**24.16(12)** If an individual cannot be contacted by the department for referral to possible employment.

**24.16(13)** Where a claimant has demanded a wage in excess of the wages most commonly paid for suitable work the individual is seeking in the locality.

**24.16(14)** Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

**24.16(15)** Where work is unduly limited because the claimant is not willing to work the number of hours necessary in the claimant's occupation.

**24.16(16)** Where availability for work is unduly limited because such claimant is willing to work only in a specific area although suitable work is available in other areas where the claimant is expected to be available for work.

**24.16(17)** Where availability for work is unduly limited because the claimant is not willing to accept work in the claimant's usual occupation and has failed to establish what other types of work that can and will be performed at the wages most commonly paid in the claimant's locality.

**24.16(18)** Where availability for work is unduly limited because the claimant is waiting to be recalled by a former employer or waiting to go to work for a specific employer and will not consider suitable work with other employers.

**24.16(19)** Where a claimant does not want to earn wages that may adversely affect receipt of social security.

**24.16(20)** Where availability is unduly limited because claimant is working to such a degree that removes the claimant from the labor market.

**24.16(21)** Reserved.

**24.16(22)** If the claimant is out of town for personal reasons for the major portion of the workweek and is not fulfilling reemployment requirements.

**24.16(23)** Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

**24.16(24)** Failure to report any effort to find employment.

**24.16(25)** Failure to make an adequate work search after having been previously warned and instructed to expand the work search.

**24.16(26)** Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

**24.16(27)** Failure to attend the major portion of the scheduled workweek for department-approved training.

**24.16(28)** Where the claimant spent the major portion of the period traveling while relocating.

**24.16(29)** The claimant is ineligible for benefits because no search for work was made during the period such claimant was on vacation unless the provisions of Iowa Code section 96.1A(37)*"c"* are met.

**24.16(30)** Where the claimant left employment prior to a scheduled layoff when claimant could have remained in employment. No disqualification may be imposed in accordance with Iowa Code section 96.5(1)*"g"* for the period subsequent to the date of the scheduled layoff if such claimant is otherwise eligible. The claimant will be disqualified for the period between the last day worked and the date of the scheduled layoff because of voluntary unemployment.

**24.16(31)** Where the claimant is not able to work due to personal injury.

**24.16(32)** Where the claimant is not able to work, is under the care of a medical practitioner, and has not been released as being able to work.

**24.16(33)** An individual who follows a course of action designed to discourage prospective employers from hiring the individual will be deemed to have failed to make an effort to secure work.

**24.16(34)** Where the work search has been deliberately falsified for the purpose of obtaining benefits, the recommended penalty is:

*a.* First offense—denial of benefits for six weeks.

*b.* Second offense—denial of benefits for nine weeks.

*c.* Third offense—total disqualification for the remainder of the benefit year and the department may consider filing fraud charges.

The penalties are a mere guide and not a substitute for the subjective judgment of the department.

**24.16(35)** Where claimant became temporarily unemployed but was unavailable for work with the employer that temporarily laid the claimant off. The evidence must establish that the claimant had a choice

to work and that the willingness to work would have led to actual employment in suitable work during the weeks the employer temporarily suspended operations.

This rule is intended to implement Public Law 96-499 and Iowa Code sections 96.4(3), 96.5(1), 96.6(1), 96.1A and 96.29.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.17(96) Failure to accept work and failure to apply for suitable work.** A claimant's failure to accept work and failure to apply for suitable work will be removed when the individual has worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

**24.17(1)** *Bona fide offer of work.*

*a.* In deciding whether or not a claimant failed to accept or apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter is deemed to be sufficient as a personal contact.

*b.* Upon notification of a job opening for a claimant, a representative of the department will notify the claimant of the job referral. If the claimant fails to respond without good cause, the claimant will be disqualified until such time as the claimant contacts the department.

**24.17(2)** *Job within claimant's capabilities.*

*a.* To be suitable, the job offered must be within the claimant's physical capabilities and not require any undue physical skill or particular training the claimant does not already possess. As the period of unemployment lengthens, work that might originally have been unsuitable may become suitable.

*b.* A refusal of suitable work occurs when a claimant, separated for lack of work, fails to accept work offered by the employer on recall or fails to apply for work when directed by a representative of the department. The claimant will be disqualified for failure to apply for or accept an offer to work until such time as the individual has worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

**24.17(3)** *Each case decided on its own merits.* The department will investigate and determine whether the work was suitable and whether the claimant had good cause for refusal. Each case will be determined on its own merits as established by the facts. Good cause for refusing suitable work may nevertheless disqualify a claimant as being unavailable for work.

**24.17(4)** *Work refused when the claimant fails to meet the benefit eligibility conditions of Iowa Code section 96.4(3).* Before a disqualification for failure to accept work may be imposed, an individual must first satisfy the benefit eligibility conditions of being able to work and available for work and not unemployed for failing to bump a fellow employee with less seniority. If the facts indicate that the claimant was or is not available for work, and this resulted in the failure to accept work or apply for work, such claimant will not be disqualified for refusal since the claimant is not available for work. In such a case it is the availability of the claimant that is to be tested. Lack of transportation, illness or health conditions, illness in family, and child care problems are generally considered to be good cause for refusing work or refusing to apply for work. However, the claimant's availability would be the issue to be determined in these types of cases.

**24.17(5)** *Bumping rights to a job.* A claimant who fails to exercise seniority rights to bump a less senior employee is eligible for benefits and the provision pertaining to the search for work is waived during a period of regular unemployment insurance benefits. This waiver of the search for work does not apply to a claimant who is receiving extended benefits.

**24.17(6)** *Claimant physically unable to perform job.* A medical practitioner must submit certification to support the claimant's statement that work offered is unsuitable because of the claimant's physical condition.

**24.17(7)** *Gainfully employed outside of area where job is offered.* Two reasons that generally constitute good cause for not accepting an offer of work are if the claimant is gainfully employed elsewhere or the claimant does not reside in the area where the job is offered.

**24.17(8)** *Refusal disqualification jurisdiction.* Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa Code section 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

**24.17(9)** *Distance to new job.* Without a prior specific agreement between the employer and employee, the employee's refusal to follow the employer to a distant new job site may not be reason for a refusal disqualification.

**24.17(10)** *Bulletin board notice of work.* A bulletin board notice for employees to work during a plant shutdown does not constitute an offer of work by the company.

**24.17(11)** *Claimant discourages prospective employers.* When a claimant willfully follows a course of action designed to discourage a prospective employer from hiring such claimant, the claimant will be deemed to have refused suitable work.

**24.17(12)** *Claimant moved to another state.* A claimant who moves to another state will not be subject to disqualification for refusal to return to a previously held job.

**24.17(13)** *Employment offer from former employer.*

*a.* A claimant will be disqualified for refusing work with a former employer if the work offered is reasonably suitable, comparable, and within the purview of the claimant's usual occupation. The provisions of Iowa Code section 96.5(3)*"b"* control the determination of suitability of work.

*b.* An employment offer will not be considered suitable if the claimant had previously quit the former employer and the conditions that caused the claimant to quit are still in existence.

**24.17(14)** *Suitable work.* In determining what constitutes suitable work, the department will consider, among other relevant factors, the following:

*a.* Any risk to the health, safety and morals of the individual.

*b.* The individual's physical fitness.

*c.* Prior training.

*d.* Length of unemployment.

*e.* Prospects for securing local work by the individual.

*f.* The individual's customary occupation.

*g.* Distance from the available work.

*h.* Whether the work offered is for wages equal to or above the federal or state minimum wage, whichever is higher.

*i.* Whether the work offered meets the percentage criteria established for suitable work that is determined by the number of weeks that have elapsed following the effective date of the most recent new or additional claim for benefits filed by the individual.

*j.* Whether the position offered is due directly to a strike, lockout, or other labor dispute.

*k.* Whether the wages, hours or other conditions of employment are less favorable for similar work in the locality.

*l.* Whether employment is contingent on joining or resigning from a labor organization.

**24.17(15)** *Disabled accessibility to job.* A job offer is not suitable if a disabled individual has no access to a building or its facilities.

This rule is intended to implement Iowa Code sections 96.3(3), 96.4(2), 96.4(3), 96.5(1), 96.5(3), 96.6(1), 96.11(1), 96.16, 96.1A, and 96.29.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.18(96) Voluntary quit without good cause.** In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits, but the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code sections 96.5(1)*"a"* through *"i"* and 96.5(10). The following reasons for a voluntary quit are be presumed to be without good cause attributable to the employer:

**24.18(1)** Claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

**24.18(2)** Claimant moved to a different locality.

**24.18(3)** Claimant left to seek other employment but did not secure employment.

**24.18(4)** Claimant was absent for three days without giving notice to employer in violation of company rule.

**24.18(5)** Claimant left due to an inability to work with other employees.

**24.18(6)** Claimant failed to return to work upon the termination of a labor dispute.

**24.18(7)** Claimant left to enter military service, either voluntarily or by conscription. While in military service such claimant is considered to be on leave from employment. Voluntary quit in this context will occur when upon release from military service the claimant does not return to the claimant's employer to apply for employment within 90 days, provided the claimant provides evidence to the employer of satisfactory completion of the military service and further provided that the claimant is still qualified to perform the duties of the position.

**24.18(8)** Claimant left employment to accompany a spouse to a new locality. No disqualification will be imposed when Iowa Code section 96.5(1)*"b"* is applicable.

**24.18(9)** Claimant left to get married.

**24.18(10)** Claimant left without notice during a mutually agreed upon trial period of employment.

**24.18(11)** Claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

**24.18(12)** Claimant becomes incarcerated.

**24.18(13)** Claimant left because of lack of child care.

**24.18(14)** Claimant left because of a dislike of the shift worked.

**24.18(15)** Claimant left to enter self-employment.

**24.18(16)** Claimant left for compelling personal reasons and the period of absence exceeded ten working days.

**24.18(17)** Claimant left because of dissatisfaction with the work environment.

**24.18(18)** Claimant left because of a personality conflict with the supervisor.

**24.18(19)** Claimant left voluntarily due to family responsibilities or serious family needs.

**24.18(20)** Claimant left employment to accept retirement when such claimant could have continued working.

**24.18(21)** Claimant left to take a vacation.

**24.18(22)** Claimant left to go to school.

**24.18(23)** Claimant left rather than perform the assigned work as instructed.

**24.18(24)** Claimant left after being reprimanded.

**24.18(25)** Claimant left in anticipation of a layoff in the near future, but work was still available at the time claimant left.

**24.18(26)** Claimant left due to the commuting distance to the job and was aware of the distance when hired.

**24.18(27)** Claimant left work to keep from earning enough wages during the year to adversely affect receipt of social security.

**24.18(28)** Claimant left by refusing a transfer to another location when it was known at the time of hire that it was customary for employees to transfer as required.

**24.18(29)** Claimant left because claimant felt that the job performance was not to the satisfaction of the employer provided the employer had not requested claimant leave and continued work was available.

**24.18(30)** Claimant left because work was irregular due to weather conditions that were not unusual in claimant's type of employment.

**24.18(31)** Claimant left because of illness or injury that was not caused or aggravated by the employment or pregnancy and failed to:

*a.* Obtain the advice of a licensed and practicing physician or physician assistant;

*b.* Obtain certification of release for work from a licensed and practicing physician or physician assistant;

*c.* Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician or physician assistant; or

*d.* Fully recover so that the claimant could perform all of the duties of the job.

**24.18(32)** Where claimant maintained that the claimant left due to an illness or injury that was caused or aggravated by the employment but the employer met its burden of proof in establishing that the illness or injury did not exist or was not caused or aggravated by the employment.

**24.18(33)** Where claimant gives the employer notice of an intention to resign and the employer accepted such resignation. This rule also applies to a claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

**24.18(34)** Where claimant gave the employer an advance notice of resignation, causing the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation. Benefits will be denied effective the proposed date of resignation.

**24.18(35)** Where claimant voluntarily quit in advance of the announced scheduled layoff, the disqualification period will be from the last day worked to the date of the scheduled layoff.

This rule is intended to implement Iowa Code sections 96.3(3), 96.4(3), 96.4(5), 96.5(1), 96.5(3), 96.6(1), 96.6(2), 96.16, and 96.1A.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.19(96) Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits.** In addition to the reasons established in Iowa Code section 96.5(1), the following are reasons for a claimant leaving employment with good cause attributable to the employer:

**24.19(1)** An employer's willful breach of contract of hire is not a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and may involve changes in working hours, shifts, remuneration, location of employment, or drastic modification in type of work. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

**24.19(2)** Claimant left due to unsafe working conditions.

**24.19(3)** Claimant left due to unlawful working conditions.

**24.19(4)** Claimant left due to intolerable or detrimental working conditions.

**24.19(5)** Claimant was laid off by the employer for being pregnant; however, availability must still be determined.

**24.19(6)** Separation because of illness, injury, or pregnancy.

*a. Nonemployment related separation.* For purposes of Iowa Code section 96.5(1)*"d,"* recovery is defined as the ability of the claimant to perform all the duties of the previous employment.

*b. Employment related separation.* The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment that caused or aggravated the illness, injury, allergy, or disease to the employee that made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph, an individual must present competent evidence showing adequate health reasons to justify termination, before quitting have informed the employer of the work-related health problem and informed the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work that is not injurious to the claimant's health and for which the claimant must remain available.

**24.19(7)** For purposes of Iowa Code section 96.5(1)*"c,"* immediate family is defined as a collective body of persons who live under one roof and under one head or management, or a son or daughter, stepson, stepdaughter, father, mother, father-in-law, mother-in-law. Members of the immediate family are related by blood or by marriage.

**24.19(8)** For purposes of Iowa Code section 96.5(1)*"e,"* family is defined as wife, husband, children, parents, grandparents, grandchildren, foster children, brothers, brothers-in-law, sisters, sisters-in-law, aunts, uncles or corresponding relatives of the classified employee's spouse or other relatives of the classified employee or spouse residing in the classified employee's immediate household.

**24.19(9)** A claimant who underwent a mandatory retirement as of a certain age because of company policy or in accordance with an agreement between the employer and union.

**24.19(10)** The granting of a written release from employment by the employer at the employee's request is a mutual termination of employment and not a voluntary quit. However, this would constitute a period of voluntary unemployment by the employee and the employee would not meet the availability requirement of Iowa Code section 96.4(3).

**24.19(11)** When an employee gives notice of intent to resign at a future date, it is a quit issue on that future date. Should the employer terminate the employee immediately, such employee is eligible for benefits for the period between the actual separation and the future quit date given by the claimant.

**24.19(12)** A claimant who, when told of a scheduled future layoff, leaves employment before the layoff date is deemed to be unavailable for work until the future separation date designated by the employer. After the employer-designated date, the separation will be considered a layoff.

**24.19(13)** For purposes of Iowa Code section 96.5(1)*"g,"* good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business, blinding snowstorm, telephone lines down, employer closed for vacation, hospitalization of the claimant, and other substantial reasons.

Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently accepted means of communications.

**24.19(14)** For purposes of Iowa Code section 96.5(1)*"f,"* working days means the normal days in which the employer is open for business.

**24.19(15)** Separation due to incarceration.

*a.* The claimant is eligible for benefits if the department finds that all of the following conditions have been met:

(1) The employer was notified by the claimant prior to the absence;

(2) Criminal charges relating to the incarceration were not filed against the individual, all criminal charges against the individual relating to the incarceration were dismissed, or the claimant was found not guilty of all criminal charges relating to the incarceration;

(3) The claimant reported back to the employer within two working days of the release from incarceration and offered services to the employer; and

(4) The employer rejected the offer of services.

*b.* If the claimant fails to satisfy the requirements of subparagraph 24.19(17)*"a"*(1), the claimant is considered to have voluntarily quit the employment if the claimant was absent for three working days or more under subrule 24.18(4). If the absence was two days or less, the separation is considered a discharge under rule 871—24.24(96). If all of the conditions of subparagraphs 24.19(17)*"a"*(2), 24.19(17)*"a"*(3) and 24.19(17)*"a"*(4) are not satisfied, the separation is considered a discharge under rule 871—24.24(96).

This subrule is intended to implement Iowa Code section 96.5 and Supreme Court of Iowa decision, *Irving v. Employment Appeal Board*, 883 N.W.2d 179.

**24.19(16)** The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work is not construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable will shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 871—24.17(96) are controlling in the determination of suitability of work. However, this subrule does not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) that denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee is considered to have voluntarily quit employment.

**24.19(17)** The claimant left work voluntarily rather than accept a transfer to another locality that would have caused a considerable personal hardship.

**24.19(18)** When a claimant was compelled to resign when given the choice of resigning or being discharged, it is not considered a voluntary leaving.

**24.19(19)** The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. This subrule does not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) that denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees are considered to have voluntarily quit employment.

**24.19(20)** The claimant left work because the type of work was misrepresented at the time of acceptance of the work assignment.

**24.19(21)** A member of the national guard or organized military reserves of the armed forces of the United States ordered to temporary active duty for the purpose of military training or ordered on active state service is entitled to a leave of absence during the period of such duty. The employer will restore the person to the position held prior to such leave of absence, or employ the person in a similar position provided that the person provides evidence to the employer of satisfactory completion of the training or duty and further provided that the person remains qualified to perform the duties of the position.

**24.19(22)** The claimant left the transferring employer and accepted work with the acquiring employer at the time the employer acquired a clearly segregable and identifiable part of the transferring employer's business or enterprise. Under this condition, the balancing account will immediately become chargeable for the benefits paid that are based on the wages paid by the transferring employer, provided the acquiring employer does not receive a partial successorship, and no disqualification will be imposed if the claimant is otherwise eligible.

This rule is intended to implement Iowa Code sections 96.3(3), 96.4(3), 96.4(5), 96.5(1), 96.5(3), 96.6(1), 96.16, and 96.1A.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.20(96) Voluntary quit of part-time employment and requalification.** An individual who voluntarily quits without good cause part-time employment and who has not requalified for benefits following the voluntary quit of part-time employment, but is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, will not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer that was voluntarily quit will be notified that benefit payments will not be made that are based on the wages paid by the part-time employer, and benefit charges will not be assessed against the part-time employer's account. However, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment will be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer will be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1)*"g."*

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.21(96) Voluntary quit requalifications and previously adjudicated voluntary quit issues.**

**24.21(1)** A claimant is eligible for benefits even though having voluntarily left employment, if after leaving the employment, the claimant worked in (except in back pay awards) and was paid wages for insured work equal to ten times the claimant's weekly benefit amount.

**24.21(2)** The claimant is eligible for benefits even though having been previously disqualified from benefits due to voluntary quit, if, after the disqualification, the claimant worked in (except in back pay awards) and was paid wages for insured work equal to ten times the claimant's weekly benefit amount.

**24.21(3)** The claimant will be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be insured work and does not include self-employment.

**24.21(4)** The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by a representative of the department and such decision has become final.

**24.21(5)** The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by the administrative law judge and such decision has become final.

**24.21(6)** The claimant voluntarily left employment. However, there shall be no disqualification under Iowa Code section 96.5(1) if a decision on this same separation has been made on a prior claim by the employment appeal board and such decision has become final.

This rule is intended to implement Iowa Code section 96.5(1)*"a."*

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.22(96) Business closing.**

**24.22(1)** Whenever an employer at which the individual was last employed and is laid off goes out of business, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period, which may increase the maximum benefit amount up to 26 times the weekly benefit amount or one-half of the total base period wages, whichever is less. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because the employer goes out of business within the same benefit year. This rule also applies to an individual who works in temporary employment between the layoff from the business closing employer and the claim for benefits. For the purposes of this rule, temporary employment means employment of a duration not to exceed four weeks.

**24.22(2)** Going out of business is when an employer closes its door and ceases to function as a business. An employer is not considered to have gone out of business if it sells or otherwise transfers the business to another employer that continues to operate the business.

**24.22(3)** When the unemployment insurance representative is informed by the individual or has knowledge of an employer going out of business, the representative completes a verification of business closing form and refers it to the field audit section for verification. Upon return of the form from the field audit section, a representative will issue the appropriate decisions to all claimants who requested that their unemployment insurance claim be redetermined as a business closing.

This rule is intended to implement Iowa Code section 96.3(5).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.23(96) Subsequent benefit year condition.**

**24.23(1)** The claimant must have been paid benefits on a previous claim.

**24.23(2)** Qualifications for a second benefit year are established in Iowa Code section 96.4(4) *"c."* Vacation pay, severance pay and bonuses are not considered as wages for second benefit year requalification purposes.

**24.23(3)** Employment for a railroad under the Railroad Unemployment Insurance Act is insured work.

**24.23(4)** Disqualification for lack of eight times the claimant's weekly benefit amount from the claimant's previous benefit year in insured work will be removed upon verification that the claimant worked in and received wages for insured work totaling eight times the claimant's weekly benefit amount from the previous benefit year during or after the previous benefit year.

This rule is intended to implement Iowa Code section 96.4(4).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.24(96) Discharge for misconduct.**

**24.24(1)** *Definition.*

*a.* "Misconduct" is defined in Iowa Code section 96.5(2)*"d."*

*b.* Back pay awards are not considered when calculating wages for qualification under Iowa Code section 96.5(2)*"a."*

**24.24(2)** *Gross misconduct.*

*a.* "Gross misconduct" is defined in Iowa Code section 96.5(2)*"c."*

*b.* An indictable offense means a common law or statutory offense presented on indictment or on county attorney's information, and includes all felonies and all indictable misdemeanors punishable by a fine of more than $500 or by imprisonment in the county jail for more than 30 days.

*c.* If gross misconduct is established, the department will cancel the individual's wage credits earned, prior to the date of discharge, from all employers regardless of when the act occurred during the benefit year.

**24.24(3)** *Report required.* The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence are not sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct is resolved.

**24.24(4)** *Trial period.* A dismissal, because of being physically unable to do the work, being not capable of doing the work assigned, not meeting the employer's standards, or having been hired on a trial period of employment and not being able to do the work are not issues of misconduct.

**24.24(5)** *False work application.* It is an act of misconduct when a willfully and deliberately false statement, made on a work application, may or does result in endangering the health, safety or morals of the applicant or others, result in exposing the employer to legal liabilities or penalties, or result in placing the employer in jeopardy.

**24.24(6)** *Excessive unexcused absenteeism.* Excessive unexcused absenteeism is an intentional disregard of the claimant's duty to the employer and is considered misconduct except for illness or other reasonable grounds so long as properly reported to the employer.

**24.24(7)** *Past acts of misconduct.* While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

**24.24(8)** *Suspension or disciplinary layoff.* Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

This rule is intended to implement Iowa Code section 96.5 and Supreme Court of Iowa decision, *Sheryl A. Cosper vs. Iowa Department of Job Service and Blue Cross of Iowa*.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.25(96) Labor disputes.**

**24.25(1)** *Definition.* As used in sections 96.5(3)*"b"*(1) and 96.5(4), the term "labor dispute" shall mean any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment regardless of whether the disputants stand in the proximate relation of employer and employee. An individual is disqualified for benefits if unemployment is due to a labor dispute.

**24.25(2)** *Initial requirements—workforce development center.*

*a.* As soon as a workforce development center has knowledge of a labor dispute or work stoppage in its administrative area, a Labor Dispute Report will be sent to the administrative office of the department advising of the labor dispute or work stoppage.

*b.* If the labor dispute or work stoppage is terminated before the report is transmitted, the information concerning the termination of the dispute and the date of the worker's return to work must also be entered on the Labor Dispute Report.

*c.* When the labor dispute or work stoppage is terminated after the filing of the initial Form 68-0535, the department must be notified of the termination and return to work dates.

*d.* In those instances where an association represents a group of employers, the report will contain the names and addresses of the employers who are involved in the labor dispute, as well as the name and address of the association and the name of the association official who can furnish information about the work stoppage.

*e.* In taking initial claims in which there is a labor dispute, the workforce development center will process an initial application for unemployment, Application for Job Placement Assistance and/or Job Insurance, in the normal manner, which will include the union name and local union number.

*f.* If there is a work stoppage at the premises of an employer and it is a known fact that there has not been a union and that at present there is no union representation nor any attempt by a union to organize the workers of the plant, a statement will be taken from each individual claiming benefits. Each individual's statement would become a part of the evidence submitted to the administrative office of the department of workforce development.

*g.* Statements from each individual claiming benefits are not required on the labor dispute issue whenever there is union representation even though some of the individuals may not be union members.

*h.* When there is a termination of the work stoppage, or if the issues have not been resolved and all workers returned to work, a report must be made to the legal counsel, unemployment insurance services division. The report will include the:

(1) Date on which an agreement was reached on the issues that caused the work stoppage.

(2) Date on which the workers returned to work, or a schedule as to how the workers will return to work.

*i.* The requirements in subrules 24.25(1) and 24.25(2) will cover the establishment and termination reports of the work stoppage and give the information necessary for the benefits bureau to investigate the work stoppage when claims are filed on which a protest is made that the claimant is involved in a work stoppage.

*j.* During the period of a labor dispute, the claims involved in the labor dispute are processed as though no separation from the employer had occurred. Therefore, if an individual is still unemployed after the termination of the labor dispute, such individual has either been laid off, voluntarily left, or has been discharged from employment, and an additional claim will be taken if the individual continues in claim status.

*k.* When the employer or the union requests advice and information pertaining to what action should be taken in regard to the labor dispute, the workforce development center, at that time, should obtain all the information possible from the requester for inclusion in the labor dispute report to the unemployment insurance services division.

*l.* The employer will receive separate notices of claim filing for each claimant and shall make any protest in the appropriate section on the Notice of Claim. The employer will receive a copy of the decision that may be appealed.

*m.* The employer will use the Notice of Separation or Refusal of Work to report separations from work by employees for reasons of voluntary leaving, misconduct and job refusal, but not labor disputes.

**24.25(3)** *Initial determination.* In any case in which the payment or denial of benefits will be determined by the provisions of Iowa Code section 96.5(4), the representative of the unemployment insurance services division will promptly review the evidence submitted and issue a decision to interested parties, who have ten days from the date of mailing the decision to the last known address of record to appeal the decision.

This rule is intended to implement Iowa Code section 96.5.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.26(96) Labor dispute—policy.**

**24.26(1)** Union membership in and of itself is not the determinative factor in whether an individual is participating in, financing or directly interested in the labor dispute.

**24.26(2)** The relationship between employer and employee continues during the period of the labor dispute unless severed by the employer or employee.

*a.* If the relationship is severed by the employer, Iowa Code section 96.5(2) governs.

*b.* If the relationship is severed by the employee, Iowa Code section 96.5(1) governs.

**24.26(3)** An individual who is unemployed because of a labor dispute and accepts employment elsewhere during the period of the labor dispute must return to the previous employer when said labor dispute is settled or be subject to a determination on the issue of voluntary leaving.

**24.26(4)** Any individual unemployed because of failure or refusal to cross a picket line during a labor dispute is considered as involved in such labor dispute.

**24.26(5)** Appeals of the department's initial determination of a labor dispute issue are heard by an administrative law judge, whose decision may be appealed to the employment appeal board.

**24.26(6)** An individual not involved in or participating in a labor dispute who failed to report to work because of a picket line shall be deemed to have voluntarily left employment. However, if the individual was subjected to hostility or violence in an attempt to cross a picket line, then the individual will be held to have involuntarily left employment.

*a.* The division presumes that any strike or lockout is being conducted in a lawful manner unless there is evidence to the contrary. The division presumes that any picketing is being conducted in a peaceful manner and that ingress or egress to the employer's facility is not being unlawfully impeded.

*b.* If an injunction request for actual or threatened violence, unlawful impedance of ingress or egress, or other unlawful conduct is denied due to such conduct not being established, the division presumes that the picket line is peaceful absent evidence to the contrary.

*c.* If an injunction is obtained, the division presumes the picket line is peaceful as of the date the injunction is issued unless evidence is introduced that proves the contrary proposition.

**24.26(7)** A lockout is not a labor dispute if the claimant is willing to continue working under the preexisting terms and conditions of the expired collective bargaining agreement for a reasonable period of time while a new collective bargaining agreement is negotiated. A lockout is a cessation of the furnishing of work to employees or a withholding of work from them in an effort to get more desirable terms for the employer.

*a.* The test for determining whether a stoppage of work is a lockout or labor dispute is to determine the final cause and the party ultimately responsible for the work stoppage. If the employees have offered to continue working for a reasonable period of time under the preexisting terms and conditions of employment so as to avert a work stoppage pending the final settlement of the contract negotiations and the employer refuses to maintain the status quo by extending the expired contract, the resulting work stoppage constitutes a lockout, and the claimants are not disqualified because of a labor dispute.

*b.* A cessation of employment by the employer is not a lockout if:

(1) The stoppage of work is in the same facility or another facility of the employer and the claimant is directly involved in the labor dispute and the collective bargaining negotiations will directly affect the claimant's condition of employment, or

(2) The claimant or the recognized collective bargaining agent declines an offer from the employer to extend the expired collective bargaining agreement while negotiations continue for a reasonable period of time taking into consideration the nature of the employer's business, or

(3) The employer can demonstrate that its refusal to allow employees to continue working under the terms and conditions of the expired collective bargaining agreement is due to a compelling reason of such degree that the extension of the contract would be unreasonable under the circumstances.

**24.26(8)** A labor dispute involves a stoppage of work at the plant or establishment. If there is no stoppage of work, the individual who leaves employment is deemed to have voluntarily quit.

**24.26(9)** When individuals, not as a group, union, or under union direction or suggestion but individually, left their work voluntarily in protest against the discharge of a fellow employee by their employer, in an unauthorized strike, it is held to be a voluntary quit.

**24.26(10)** Employment offered by an employer involved in a labor dispute or an employer who becomes involved in a labor dispute prior to acceptance by the claimant is considered:

*a.* Not suitable if the offer is made to a person who would be a new employee or a former employee who was laid off before the labor dispute and the vacancy was created by the strike, lockout, or other labor dispute.

*b.* Suitable if the offer was made to a former employee who was previously laid off, provided the position offered is not vacant because of the strike, lockout, or other labor dispute and the provisions of section 96.5(4) will apply.

*c.* Suitable if the offer is made to a new employee who was not previously laid off by the same employer, and the vacancy was not created by a labor dispute.

**24.26(11)** Other employment accepted during periods of labor disputes does not free the claimant from the labor dispute section of the Iowa employment security law unless the claimant severs the relationship with the employer and obtains bona fide employment elsewhere.

This rule is intended to implement Iowa Code sections 96.5(3) and 96.5(4).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.27(96) Date of submission and extension of time for payments and notices.**

**24.27(1)** Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division will be considered received by and filed with the division:

*a.* If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

*b.* If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

*c.* If transmitted by any means other than those outlined in paragraphs 24.27(1)*"a"* and *"b,"* on the date it is received by the division.

**24.27(2)** The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period will be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

*a.* For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

*b.* The division will designate personnel who are to decide whether an extension of time will be granted.

*c.* No submission will be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case.

*d.* If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division will issue an appealable decision to the interested party.

**24.27(3)** Delivery by mail. Any notice, report form, determination, decision, or other document mailed by the division will be considered as having been given to the addressee to whom it is directed on the date it is mailed to the addressee's last-known address. The date mailed is presumed to be the date of the document, unless otherwise indicated by the facts.

**24.27(4)** Electronic delivery. Any notice, report form, determination, decision, or other document sent by the division via the U.S. Department of Labor state information data exchange system is considered as having been given to the party to whom it is directed on the date it is submitted on the system. The date submitted is presumed to be the date of the document, unless otherwise indicated by the facts.

This rule is intended to implement Iowa Code section 96.7.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.28(96) Interstate benefits.**

**24.28(1)** An interstate claimant is an individual who claims benefits under the unemployment insurance law of one or more liable states. Interstate benefits are payable under the plan approved by the national association of state workforce agencies to unemployed individuals who do not reside in the state(s) in which wage credits were earned.

**24.28(2)** The division shall determine unemployment benefit claims for interstate claimants in accordance with applicable state and federal law.

This rule is intended to implement Iowa Code section 96.20.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.29(96) Payment of benefits to interstate claimants.**

**24.29(1)** Section 96.20 of the employment security law of Iowa authorizes the department to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both. In conformity with this section, the department of workforce development prescribes:

*a. Applicability.* This regulation shall govern the department in its administrative cooperation with other states.

*b. Definitions.* In addition to terms defined in 17.1, the following definitions apply to this rule unless the context clearly requires otherwise:

(1) "Interstate benefit payment plan." The plan approved by the national association of state workforce agencies under which benefits shall be payable to unemployed individuals who do not reside in the state (or states) in which benefit credits have been accumulated.

(2) "Interstate claimant." This is an individual who claims benefits under the unemployment insurance law of one or more liable states. The term interstate claimant shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the department finds that this exclusion would create undue hardship on such a claimant in a specified area.

(3) "State." This includes the District of Columbia, Puerto Rico, the Virgin Islands and Canada.

*c. Registration for work.*

(1) Each interstate claimant will be registered for work as legally required by the agent state. This registration will be deemed to meet the registration requirements of the liable state.

(2) Each agent state will report to the respective liable state whether each interstate claimant meets the registration requirements of the agent state.

*d. Benefit rights of interstate claimants.*

(1) If a claimant files a claim against any state, and it is determined that the claimant has available benefit credits in that state, then claims will be filed only against that state as long as benefit credits are available there. Thereafter, the claimant may file claims against any other state having available benefit credits.

(2) For the purposes of this regulation, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction. The department will respect the prior adjudication of a liable state if the department is made aware of the decision and will apply the Iowa requalification criteria, unless the claimant has requalified pursuant to the liable state's requalification criteria.

(3) The effective date of an interstate claim is the Sunday of the week the claim was filed, unless proof is obtained from another state that the claimant should have filed in Iowa.

*e. Claim for benefits.* Claims for benefits shall be filed by interstate claimants on uniform interstate claim forms or by using the procedures provided by the liable state and in accordance with uniform procedures developed pursuant to the interstate benefit payment plan. Claims shall be filed in accordance with the type of week in use in the agent state. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.

*f. Determination of claims.*

(1) In connection with each claim filed by an interstate claimant, the agent state shall ascertain and report to the liable state in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.

(2) The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts. The agent state shall not refuse to take an interstate claim unless the liable state has a procedure for taking out-of-state claims.

*g. Appellate procedure.*

(1) The agent state shall afford all reasonable cooperation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.

(2) With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified representative of the agent state.

**24.29(2)** Extended benefits interstate claims. When extended benefits are in effect and a claimant is filing for extended benefits, an eligible individual shall be limited to a maximum of two weeks of the extended benefit entitlement if the individual moves from this state, before or during an extended benefit period triggered by this state's "on" indicator, to another state in which an extended benefit period is not in effect.

This rule is intended to implement Iowa Code sections 96.6(1) and 96.29(3).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.30(96) Combined wage claim.**

**24.30(1)** Purpose of plan. The combined wage program enables an unemployed worker with covered employment or wages in more than one state to combine all employment and wages in one state to qualify for benefits or to receive increased benefits.

*a.* Each state will cooperate with every other state by implementing these uniform combined wage procedures, rules and regulations.

*b.* The benefit year, base period, qualifying wages, benefit rate, and duration of benefits under the unemployment compensation law of the agent state is applicable to a combined wage claimant.

*c.* The rights of the individual under the combined wage claim plan are determined by the paying state after the combining of all wages available from the liable states; however, in the case in which another state transfers wages to Iowa and Iowa is the paying state, Iowa cannot again adjudicate a separation that has been previously adjudicated by the transferring state. The department will respect the prior adjudication of the transferring state if the department is aware of the decision and will apply the Iowa requalification criteria, unless the individual has requalified pursuant to the liable state's requalification criteria.

*d.* All other provisions of the unemployment compensation laws and rules of the state agency of the paying state will be applied to the combined wage claim.

*e.* The paying state is the state in which the claim is filed unless the individual does not qualify after the transfer has been completed or the claimant is a commuter, meaning that the person travels on a daily or regular basis from the state of residence to a separate state where the person works.

**24.30(2)** Exception to combining wage credits. Wages and employment are not transferable to the paying state if:

*a.* Any employment and wages have been transferred to any other paying state and not returned unused,

*b.* Wages have been used by the transferring state as the basis of a monetary determination that established a benefit year, and

*c.* Any employment and wages have been canceled or are unavailable due to a transferring state determination made prior to the request for transfer.

**24.30(3)** The claimant will be told that if there was a previous election to file a combined wage claim, the claimant may withdraw the combined wage claim any time, up to the date the paying state's monetary determination becomes final. However, if the claimant withdraws a combined wage claim and benefits have been paid, the claimant will be required to repay any such benefits. This repayment may be done electronically, by cash, by check, by money order, or by an authorization to the state(s) from which such claimant next claims benefits to reimburse the combined wage paying state for any benefits that said claimant will be paid.

This rule is intended to implement Iowa Code section 96.20.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.31(96) Department-approved training.** Department-approved training allows claimants to return to the labor market after attending vocational training while being paid unemployment insurance benefits.

Vocational training is nonacademic, skill-oriented training that provides the student with job tools and skills that can be used in the workplace. It includes technical, skill-based, or job readiness training intended for pursuing a career. Upon departmental approval, the claimant is exempt from the work search requirement for continued benefit eligibility benefits. To be eligible for department-approved training programs and to maintain continuing participation therein, the individual must meet the following requirements:

**24.31(1)** The claimant applies to the department demonstrating:

*a.* The educational establishment at which the claimant would receive training;

*b.* The estimated time required for such training;

*c.* The date the training will be complete or the degree obtained;

*d.* The occupation the training is allowing the claimant to maintain or pursue; and

*e.* The training plan, indicating the requirements needed to complete the certification or degree.

**24.31(2)** A claimant may receive unemployment insurance while attending a training course approved by the department if:

*a.* The educational establishment is a college, university or technical training institution;

*b.* The training is completed 104 weeks or less from the start date; and

*c.* The individual is enrolled and attending as a full-time student, as defined by the institution.

While attending the approved training course, the claimant need not be available for work or actively seeking work, except if the hours of the training are outside the regular hours worked in the base period employment. After completion of department-approved training, to continue eligibility for unemployment insurance, the claimant may place no restriction on employability. The claimant must be able to work, available for work, and actively searching for work. The claimant may be subject to disqualification for any refusal of work without good cause after completing training.

**24.31(3)** The claimant must show satisfactory attendance and progress in the training course to be considered for a subsequent approval.

This rule is intended to implement Iowa Code section 96.4.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.32(96) Training extension benefits.**

**24.32(1)** Training extension benefits provide continued benefit eligibility, allowing an individual to pursue a training program for entry into a high-demand or high-technology occupation. Training extension benefits are available to an individual who voluntarily quit with good cause attributable to the employer or who was laid off or from full-time employment in a declining occupation or who was involuntarily separated from full-time employment due to a permanent reduction of operations.

**24.32(2)** The weekly benefit amount is pursuant to the same terms and conditions as regular unemployment benefits and the benefits are for a maximum of 26 times the weekly benefit amount of the claim that resulted in eligibility. Contributory and reimbursable employers will be relieved of charges for training extension benefits.

**24.32(3)** Enrollment must be full-time, as defined by the training institution, and courses must be designed to prepare the individual for a high-demand or high-technology occupation. The department will make available on its website and at workforce centers a list of high-demand, high-technology, and declining occupations.

*a.* High-technology occupations include life sciences, advanced manufacturing, biotechnology, alternative fuels, insurance, environmental technology, and technologically advanced green jobs. A high-technology occupation is one that requires a high degree of training in the sciences, engineering, or other advanced learning area and that has work opportunities available in the labor market area or the state of Iowa.

*b.* A high-demand occupation means an occupation in a labor market area or the state of Iowa as a whole in which the department determines that work opportunities are available.

*c.* A declining occupation has a lack of sufficient current demand in the individual's labor market area or the state of Iowa for the occupational skills possessed by the individual, and the lack of employment opportunities is expected to continue for an extended period of time.

*d.* A declining occupation includes an occupation for which there is a seasonal variation in demand in the labor market or the state of Iowa, and the individual has no other skill for which there is a current demand.

*e.* A declining or high-demand occupation will be determined by using Iowa labor market information for each region in the state.

**24.32(4)** The application for training benefits must be received within 30 days after state or federal benefits are exhausted. The individual must be enrolled and making satisfactory progress to complete the training program for training extension benefit eligibility to continue.

**24.32(5)** Training benefits will cease to be available if the training is completed, the individual quits the training course, the individual exhausts the training extension maximum benefit amount, or the individual fails to make satisfactory progress. Benefits will cease no later than the end of the benefit year in which the individual became eligible for the benefits. Individuals must file and receive benefits under any federal or state unemployment insurance benefit program until the benefits have been exhausted in order to maintain eligibility for training extension benefits.

This rule is intended to implement Iowa Code section 96.3(5).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.33** Reserved.

**871—24.34(96) Trade Act of 1974.** Unemployment benefits payable to claimants under the Trade Act of 1974 (P.L. 93-618) are determined in accordance with the rules of the United States department of labor as published in the Code of Federal Regulations, Chapter 29, Parts 70 and 91. The Trade Act of 1974 is designed to pay unemployment benefits to workers who become unemployed due to foreign production of goods replacing domestic production.

This rule is intended to implement 19 U.S.C. Sections 2101 through 2497b as amended November 1, 2024.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.35(96) Extended benefits.**

**24.35(1)** *Purpose.* Extended benefits are defined by Iowa Code section 96.1A(20).

**24.35(2)** *Determination of when extended benefits are paid.*

*a. When paid.* The state "on" indicator, as defined by Iowa Code section 96.1A(29), determines when extended benefits are paid in this state.

*b. When not paid.* The state "off" indicator, as defined by Iowa Code section 96.1A(28), determines when extended benefits are not paid in this state.

*c. Period of payment.* The extended benefit period is defined in Iowa Code section 96.1A(19).

*d. Rate of insured unemployment.* See Iowa Code section 96.1A(31).

**24.35(3)** *Notice of the beginning and ending of an extended benefit period.*

*a. Notice to individuals.* The department will notify individuals of:

(1) The beginning of an extended benefit period. The notice of potential entitlement to extended benefits is sent to each individual who has exhausted all rights to regular benefits either prior to the beginning of, or during, the extended benefit period and who has a benefit year that will not end prior to the beginning of the extended benefit.

(2) The ending of an extended benefit period. The notice of termination of entitlement to extended benefits is sent to each individual who is currently filing a claim for extended benefits.

*b.* Reserved.

**24.35(4)** *Amount and duration of extended benefits.*

*a. Eligibility period.* The eligibility period is defined in Iowa Code section 96.29(6).

*b. Applicable benefit year.* The applicable benefit year includes the period of one year from the date that an individual files a valid claim for benefits and any weeks following this one-year period in which the individual's eligibility period for extended benefits has not expired and the individual is not able to establish a second benefit year for regular benefits.

**24.35(5)** *Eligibility requirements for extended benefits.* The individual is required to actively seek, apply for or accept suitable work as per the current extended benefits proclamation.

This rule is intended to implement Iowa Code section 96.29.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.36(96) Disaster benefits.** Unemployment benefits payable under the Disaster Relief Act of 1974, will be determined in accordance with the rules of the United States Department of Labor and published in the Code of Federal Regulations, Title 20, Chapter V, Parts 625 and 650.

This rule is intended to implement Iowa Code section 96.7(2).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.37(96) UCFE claims.** Benefits under the Federal Employer's Compensation Act. Unemployment benefits for civilian federal employees are determined in accordance with the applicable state law and rules as well as the rules of the United States Department of Labor published in the Code of Federal Regulations, Title 20, Chapter V, Parts 609, 615, 616, and 650. These benefits are payable under the Federal Employees Compensation Account, 5 U.S.C. 8509, and are based on wages earned by civilians in covered federal employment.

This rule is intended to implement 20 CFR Sections 10.0 through 25.203 as amended November 1, 2024.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.38(96) UCX claims.**

**24.38(1)** Unemployment benefits for ex-military personnel, in addition to being determined in accordance with applicable Iowa law and rules, will be determined in substantial compliance with the rules and guidelines of the United States Department of Labor published in the Code of Federal Regulations, Title 20, Chapter V, Parts 614 and 650.

**24.38(2)** These benefits are payable under the Ex-Service Member's Unemployment Compensation Act of 1958, 5 U.S.C. 8521-8525.

This rule is intended to implement 10 U.S.C. Sections 1141 through 1155 as amended November 1, 2024.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.39(96) Temporary extended unemployment compensation.**

**24.39(1)** Overpayments will be offset up to and including 100 percent of the federal extended unemployment compensation benefit payment.

**24.39(2)** Waiver of overpayments.

*a.* Individuals who have received amounts of extended unemployment compensation to which they were not entitled are required to repay the amounts of such extended unemployment compensation except that the state repayment may be waived if the department determines that:

(1) The payment of such extended unemployment compensation was without fault on the part of the individual; and

(2) Such repayment would be contrary to equity and good conscience.

*b.* In determining whether fault exists, the following factors are considered:

(1) Whether a material statement or representation was made by the individual in connection with the application for extended unemployment compensation that resulted in the overpayment and whether the individual knew or should have known that the statement or representation was inaccurate.

(2) Whether the individual failed or caused another to fail to disclose a material fact in connection with an application for extended unemployment compensation that resulted in the overpayment and whether the individual knew or should have known that the fact was material.

(3) Whether the individual knew or could have been expected to know that the individual was not entitled to the extended unemployment compensation payment.

(4) Whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of the individual or of which the individual had knowledge and that was erroneous or inaccurate or otherwise wrong.

*c.* In determining whether equity and good conscience exist, the following factors are considered:

(1) Whether the overpayment was the result of a decision on appeal;

(2) Whether the state agency had given notice to the individual that the individual may be required to repay the overpayment in the event of a reversal of the eligibility determination on appeal; and

(3) Whether recovery of the overpayment will cause financial hardship to the individual.

This rule is intended to implement Iowa Code sections 96.11 and 96.29.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.40(96) School definitions.**

**24.40(1)** Educational institution is defined in Iowa Code section 96.1A(12).

**24.40(2)** Educational service is defined in Iowa Code section 96.4(5)*"d."*

**24.40(3)** Employment definitions.

*a.* Professional employees including educational service agency employees means persons who are employed in an instructional, research or principal administrative capacity as explained below:

(1) Instructional: Services performed for an educational institution that consist of teaching in formal classroom and seminar situations, tutoring, or lecturing in the activity of imparting knowledge; or of services that consist of directing or supervising the instructional activities of others; or services that consist of counseling, advising, or otherwise determining curriculum, courses, and academic pursuits for students.

(2) Research: Services performed for an educational institution that consist of careful and systematic study and investigation in a field of science and knowledge, undertaken to establish facts or principles. The work performed is in a predominantly intellectual field or artistic endeavor that is varied in character and requiring the constant exercise of discretion and judgment in performance. The work further requires advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study.

(3) Principal administrative: Services performed for an educational institution that consist of managing the educational institution or one of its major divisions or departments. Such services include the responsibility for establishing and administering policies, rules, and regulations that have major impact on the overall operations and functions of the educational institutions or one of its major divisions or departments. Work and activities are performed under general direction and broad objectives and missions, with the authority to determine goals and the techniques and methods of operations of the educational institution or one of its major divisions or departments. The duties performed by the individual rather than the title held should determine whether the prohibition applies.

*b.* Nonprofessional employees including educational service agency employees means persons who perform services in any capacity for an educational institution other than in an instructional, research, or principal administrative capacity.

**24.40(4)** Institution of higher education is defined in Iowa Code section 96.1A(25).

**24.40(5)** Reasonable assurance, as applicable to an employee of an educational institution, means a written, verbal, or implied agreement that the employee will perform services in the same or similar capacity, which is not substantially less in economic terms and conditions, during the ensuing academic year or term. It need not be a formal written contract. To constitute a reasonable assurance of reemployment for the ensuing academic year or term, an individual must be notified of such reemployment.

**24.40(6)** School duration period.

*a.* "Academic year" is defined as that period of time that school personnel are obligated by contract to render services to the educational institution during the school year.

*b.* "Term" is defined as either of the two periods into which the yearly period of instruction is normally divided, commonly referred to as a semester. If the educational institution operates on a quarterly basis, then term means the same as a quarter period. If the educational institution operates on a trimester basis, then term means the same as a trimester period or any other division in a school year during which instruction is regularly given to students.

*c.* Twelve-month employment. School employees who perform services for educational institutions 12 months of a calendar year or years.

**24.40(7)** The term "established and customary" vacation period or holiday recess involved in this provision includes those scheduled at Christmas and in the spring, when those vacation periods or recesses occur within a term.

**24.40(8)** Between terms or academic years denial means any week of unemployment that begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such terms or academic years.

This rule is intended to implement Iowa Code sections 96.1A(12), 96.1A(25), and 96.4(5).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.41(96) Determining eligibility of school claims after employer protest.**

**24.41(1)** Claim filed. When a claim has been filed by an employee of an educational institution, the department sends a Notice of Claim to the educational institution. To protest the claim, the educational institution returns the notice to the department, including a statement as to whether or not the individual who filed a claim had been given reasonable assurance for the ensuing academic year or term. The statement should include the date and method of such notification. A copy of the notification may be attached to the Notice of Claim.

**24.41(2)** If the statement from the school indicates that there is no reasonable assurance of the employee returning to work for the ensuing academic year or term, the claim will be allowed, subject to meeting all other eligibility requirements. However, if an educational institution submits a statement or the claimant furnishes information concerning a reasonable assurance of school employment, the employee is subject to a denial of benefits. If the fact-finding results in a disqualification, the effective starting date of the disqualification is determined as follows:

*a.* No earlier than the effective starting date of the claim. If the job offer was prior to the beginning date of the claim and the claimant refuses the offer, the issue is adjudicated as a voluntary quit.

*b.* The Sunday of the week in which the job was offered under any of the following conditions:

(1) The employer protest was made within ten-day protest period.

(2) The department was notified within ten days of the date of the offer.

(3) The claimant was in a reporting status on a claim for unemployment insurance at the time the offer was made and the claimant failed to notify the department of the offer.

*c.* The Sunday of the week in which the claimant or employer notified this department of the offer unless the offer was prior to the week that the department was notified of the offer and the claimant was in reporting status on a claim for unemployment insurance at that time. In this situation, the effective starting date of disqualification will be the Sunday of the week in which the job offer was made.

*d.* The Sunday of the week in which the employer notified the department of the offer to the claimant. A refusal to accept the offer of employment is adjudicated as a voluntary quit section.

**24.41(3)** Professional employee. Unemployment insurance payments that are based on school employment shall not be paid to a professional employee for any week of unemployment that begins between two successive academic years, between regular terms, or during a period of paid sabbatical leave if the individual has a contract or reasonable assurance to perform services in any such capacity for any educational institution for both such academic years or terms. However, unemployment insurance payments may be made that are based on non-school-related wage credits pursuant to subrule 24.41(6).

**24.41(4)** Nonprofessional employee.

*a.* Unemployment insurance payments that are based on school employment may not be paid to a nonprofessional employee for any week of unemployment that begins between two successive academic years or terms if the individual has performed service in the first of such academic years or terms and there is a reasonable assurance that such individual will perform services for the second academic year or term. However, unemployment insurance payments can be made based on non-school-related wage credits pursuant to subrule 24.41(6).

*b.* The nonprofessional employee may qualify for retroactive unemployment insurance payments if the school employment fails to materialize in the following term or year and the individual has filed

weekly or biweekly claims on a current basis during the between terms denial period pursuant to paragraph 24.2(1)*"e."*

**24.41(5)** An educational institution employee who performs services on a 12-month, year-round basis whose employment is terminated through layoff or reduction in force prior to the completion of the 12-month period, is eligible for benefits and may not be disqualified under the provisions of Iowa Code section 96.4(5). An offer of reemployment to the 12-month, year-round employee for the succeeding academic year or term will be adjudicated under Iowa Code section 96.5(3) regarding offers of suitable work and no disqualification may be imposed prior to the week in which the employment is scheduled to commence.

**24.41(6)** Benefits based on services performed in an educational institution for periods between academic years or terms that are denied to an individual will result in the denial of the use of such wage credits. However, if sufficient non-school wage credits remain on the claim to qualify under Iowa Code section 96.4(4), the remaining wage credits may be used for benefit payments, if the individual is otherwise eligible.

**24.41(7)** Head start programs are considered educational in nature; however, the employing unit as a whole must have as its primary function the education of students. When the employing unit is operated primarily for educational purposes, then the between terms denial established by Iowa Code section 96.4(5) will apply between two successive academic years or terms and will apply for holiday and vacation periods to deny benefits to school personnel.

*a.* A nonprofit organization that has as its primary function civic, philanthropic or public assistance purposes does not meet the definition of an educational institution. Community action programs that have a head start school as one component are not an educational institution employer and the between terms denial does not apply.

*b.* A head start program that is an integral part of a public school system conducted by a board of education establishes an employing unit whose primary function is educational; therefore, the between terms denial would apply.

**24.41(8)** Wages earned and payment deferred. Many school employees receive remuneration from their school employers on a 12-month basis for the 9-month period worked. Deductions from unemployment insurance payments are on a "when earned" basis rather than on a "when paid" basis. Deferred wages currently paid that are based on earnings from a prior period are not deductible on a current week claimed pursuant to Iowa Code section 96.19(9)*"b"* and paragraph 24.13(2)*"o."*

**24.41(9)** Vacation period and holiday recess. With respect to any services performed in any capacity while employed by an educational institution, unemployment insurance payments may not be paid to any individual for any week that commences during an established and customary vacation period or holiday recess if such individual performs service in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform service in the period immediately following such vacation period or holiday recess. The provision of subrule 24.52(6) could also apply in this situation.

**24.41(10)** Substitute teachers.

*a.* Substitute teachers are professional employees and subject to the same limitations as other professional employees in regard to contracts, reasonable assurance provisions and the benefit denials between terms and during vacation periods.

*b.* Substitute teachers who are employed as on-call workers who hold themselves available for one employer and who will not search for or accept other work, are not available for work within the meaning of the law and are not eligible for unemployment insurance payments pursuant to subparagraph 24.15(2)*"i"*(1).

*c.* Substitute teachers whose wage credits in the base period consist exclusively of wages earned by performing on-call work are not deemed unemployed persons pursuant to subparagraph 24.15(2)*"i"*(3).

*d.* Substitute teachers engaged in on-call employment are not automatically disqualified but may be eligible pursuant to subparagraph 24.15(2)*"i"*(3) if they are:

(1) Able and available for work,

(2) Making an earnest and active search for work each week,

(3) Placing no restrictions on their employability, and

(4) Have wages other than on-call wages with an educational institution in the base period.

*e.* A substitute teacher who elects not to report for further possible assignment to work shall be considered to have voluntarily quit pursuant to subrule 24.19(19).

**24.41(11)** Declination of new contract or reasonable assurance.

*a.* The school employee who is not employed on a 12-month, year-round basis and who fails or refuses to accept a contract or reasonable assurance of employment in the succeeding academic term or year will have the separation adjudicated as a voluntary quit.

*b.* This subrule also applies to substitute teachers who fail or refuse to accept a contract or reasonable assurance of employment in the succeeding academic term or year pursuant to subrules 24.19(19) and 24.19(22).

**24.41(12)** School employees who are not offered a contract or reasonable assurance of employment in the succeeding academic term or year are eligible for benefits if all other eligibility conditions are met. However, school employees who subsequently receive a contract or reasonable assurance of employment for the following term or year will be disqualified under the "between terms denial" provision.

**24.41(13)** Continuing supplemental (part-time) school employment after loss of non-school employment. All employers, including employers of part-time workers, are notified of the filing of a claim. The school employer who continues to furnish part-time employment to the claimant may make a protest on the basis that the individual is still employed at the part-time employment and request removal of any charges to the part-time employer account pursuant to Iowa Code section 96.7(3)*"a"*(2).

This rule is intended to implement Iowa Code section 96.4.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.42(96) Noncovered school-related employment.**

**24.42(1)** See rule 871—23.20(96). However, wages earned by an individual who is a full-time employee for a school whose academic pursuit is incidental to the full-time employment may be used for claim and benefit purposes.

**24.42(2)** See rule 871—23.21(96).

This rule is intended to implement Iowa Code section 96.1A(16)*"g."*

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.43(96) Church school coverage.** Schools affiliated with a church, as per 871—subrule 16.27(7), are exempt from coverage but may volunteer coverage by request to the department. Schools not affiliated with a church are covered employers with insured work.

This rule is intended to implement Iowa Code section 96.1A(16)*"g"*(6).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.44(96) Athletes—disqualifications.** "Athletes," as used in Iowa Code section 96.5(9), applies to professional athletes. A professional athlete is an individual whose occupation is participating in athletic or sporting events for wages. A semiprofessional athlete is within the scope of Iowa Code section 96.5(9), if such sports services are performed for compensation in covered wages. Auxiliary personnel, such as coaches, trainers, etc., are not considered professional athletes.

**24.44(1)** As used in Iowa Code section 96.5(9), "services performed by an individual, substantially all of which consist of participating in sports or athletic events" means all services performed by an individual in any subject employment during the individual's base year if such individual was engaged in remunerative sports or athletic events for 90 percent or more of the total time spent in subject employment during such base year.

**24.44(2)** As used in Iowa Code section 96.5(9), "participating in sports or athletic events" means any services performed in an athletic activity by an individual as:

*a.* A regular player or team member.

*b.* An alternate player or team member.

*c.* An individual in training to become a regular player or team member.

*d.* An individual who, although performing no active services, is retained as a player or team member while recuperating from illness or injury.

**24.44(3)** The beginning and ending dates of any sport season and the beginning and ending dates of the time period between two successive sport seasons are determined by the department after considering custom and practice within a particular sport, published dates for beginning and ending of a season and any other information bearing upon such determination.

**24.44(4)** For the purposes of Iowa Code section 96.5(9), a reasonable assurance that an individual will perform services in sports or athletic events in a subsequent season is presumed to exist if:

*a.* The individual has an express or implied multiyear contract that extends into the subsequent sport season, or

*b.* The individual is free to negotiate with other teams or employers for employment as a participant in the subsequent sport season, and

*c.* There is reason to believe that one or more employers of participants in athletic events is considering or would be desirous of employing the individual in an athletic capacity in the subsequent sport season, and

*d.* The individual has not clearly and affirmatively withdrawn from participating in remunerative and competitive sports or athletic events.

**24.44(5)** Benefits that will be paid with respect to weeks of unemployment during a sports season shall be based on all wage credits of the individual. Wage credits would include those earned in sports as well as in other employment covered by an employment security law. With respect to weeks of unemployment that begin during a period between sports seasons (or similar periods) no benefits are payable on the basis of any athletic or nonathletic wages if substantially all (see subrule 24.57(1)) of the services performed by the individual during the base period were in sports or athletic events.

**24.44(6)** When a professional athlete is denied benefits because there is a reasonable assurance that the individual will again perform services as a professional athlete in the next ensuing season but the assurance fails to materialize, the denial of benefits is effective until the date established that the assurance is ineffective. Following the ineffective date, benefits can be paid if the individual is otherwise eligible. If an assurance given to an individual is found to be not a bona fide assurance, benefits are payable if the individual is otherwise eligible.

**24.44(7)** Benefits will be paid with respect to weeks of unemployment between sports seasons (or similar periods) based on wage credits of the individual, paid in other employment covered by employment security law except those in sports or athletic events or training, or preparing to so participate.

**24.44(8)** Athletes—denial of benefits. An individual (athlete) will be denied benefits between seasons based on services performed by such individual (athlete).

This rule is intended to implement Iowa Code section 96.5(9).

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.45(96) Voluntary shared work.** The voluntary shared work program provides that employers facing a temporary shortfall may reduce the work hours of all employees in an affected unit and those employees will receive a portion of their regular unemployment insurance benefits. The program is designed to reduce unemployment and stabilize the workforce. Additional information may be obtained by contacting the voluntary shared work coordinator. The employer will administer the program in cooperation with the department. Participating employees will complete the employee information form and claim for benefits and return it to the employer, who will submit it to the department. Administrative penalties in force during the duration of the plan will make an employee ineligible for the program. Child support obligations will be deducted and unemployment insurance overpayments will be offset as they are for regular unemployment insurance benefits.

**24.45(1)** The duration of a shared work plan is between 4 and 52 weeks. Any requests for subsequent plans will be reviewed by the department.

**24.45(2)** Employment is considered seasonal if the production or service provided by the employment is curtailed by at least 45 percent or ceases for a four-month or longer period on an annual basis due to climatic conditions.

**24.45(3)** A plan that has been approved may be modified at the discretion of the department. An employer seeking modification of an approved plan must demonstrate good cause as to why the modification is necessary and that the factors necessitating the modification were not foreseeable at the time the plan was submitted.

**24.45(4)** The department retains discretion to approve, deny, or revoke an approved plan.

**24.45(5)** Employer requirements.

*a.* For each week that a voluntary shared work employer has an active plan, the employer will submit a certification of hours worked by each employee covered under the plan in the form or manner directed by the department. This includes a part-time employee provided that the employee meets all other requirements.

*b.* The first employer weekly certification is due no later than the Monday following the effective date of the employer's approved work share plan. All subsequent weekly employer certifications are due no later than Monday (close of business) immediately following the benefit week. If the employer fails to submit the weekly certification by Monday immediately following the benefit week, the department will have good cause to terminate the employer's work share plan.

This rule is intended to implement Iowa Code section 96.40.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.46(96) Child support intercept.** The term "benefits" for child support intercept purposes means any compensation payable under Iowa Code chapter 96, including any amounts payable pursuant to any workforce development agreement under any federal law administered by the department.

**24.46(1)** *Information furnished to child support recovery unit.* The department will furnish information to the child support recovery unit concerning all new claims filed that are monetarily eligible for benefits under any state or federal program administered by the department.

**24.46(2)** *Action taken by child support recovery unit.* The child support recovery unit will contact the claimant to afford claimant opportunity to enter into an agreement regarding amounts to be deducted and withheld.

**24.46(3)** *Processing of payments.* The child support recovery unit will furnish to the department the name and address of the designated public official to whom the amount deducted will be remitted. After the deduction, the remaining balance is credited to the claimant.

**24.46(4)** *Notice to claimant.* The department will send a notice to the claimant explaining the beginning date and the amount of the weekly benefit deduction that satisfies the individual's child support obligation to the child support recovery unit. This notice, which explains the authority for the deduction and the claimant's right of appeal, will be issued when the first deduction is made from the benefit payment.

**24.46(5)** *Appeal rights on the child support deduction.*

*a.* Any appeal on a child support deduction is limited to either the validity of the development's authority to make the deduction or the accuracy of the amount deducted.

*b.* The claimant will be advised to seek remedy either through the child support recovery unit or through the court system whenever the question of reasonableness or fairness of the deducted amount is raised in terms of ability to pay.

*c.* The department does not have the authority to change the amount of the deduction as specified by garnishment or voluntary agreement or to adjudicate any appeal from garnishment or voluntary agreement.

This rule is intended to implement Iowa Code sections 96.3 and 96.20.

[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.47(96) Alien.** An alien is defined as a person who is not a citizen or a national of the United States. An alien is a person owing allegiance to another country or government. A national is defined as a person who lives in mandates or trust territories administered by the United States and owes permanent allegiance to the United States.

**24.47(1)** To identify illegal nonresident aliens, each claimant, at the establishment of a benefit year will be asked whether or not the individual is a citizen.

*a.* If the response is "yes," no further proof is necessary, and the claimant's records are marked accordingly.

*b.* If the answer is "no," the claimant will be requested to present documentary proof of legal residency. Any individual who does not show proof of legal residency at the time it is requested shall be disqualified from receiving benefits until such time as the required proof of the individual's status is provided to the department. The principal documents showing legal entry for permanent residency are the Form I-94, Arrival and Departure Record, and the Forms I-151 and I-551, Alien Registration Receipt Card. These forms are issued by the U.S. Citizenship and Immigration Services and should be accepted unless the proof is clearly faulty or there are reasons to doubt their authenticity. An individual will be required to provide the individual's alien registration number at the time of claim filing.

*c.* Any or all documents presented to the department by an alien shall be subject to verification with the U.S. Citizenship and Immigration Services. The citizenship question shall be included on the initial claim form so that the response will be subject to the provisions of rule 871—18.10(96), prosecution on overpayments.

**24.47(2)** Disqualification of aliens. Color of law permanent residence is defined as:

*a.* An alien admitted as a refugee under Section 207 of the Immigration and Nationality Act, 8 U.S.C. 1157, in effect after March 31, 1980;

*b.* An alien granted asylum by the attorney general of the United States under Section 208 of the Immigration and Nationality Act, 8 U.S.C. 1158;

*c.* An alien granted a parole into the United States for an indefinite period under Section 212(d)(5)(B) of the Immigration and Nationality Act, 8 U.S.C. 1182(d)(5)(B);

*d.* An alien who entered the United States prior to June 30, 1948, and who is eligible for lawful permanent residence pursuant to Section 249 of the Immigration and Nationality Act, 8 U.S.C. 1259; or

*e.* An alien who has been formally granted deferred action or nonpriority status by the U.S. Citizenship and Immigration Services.

**24.47(3)** Certain nonimmigrants may perform service in this country. All nonimmigrant aliens 18 years and older are required by law to carry alien registration card Form I-94. The immigration and naturalization service places a symbol on the Form I-94 that indicates eligibility to perform service in this country.

*a.* Nonimmigrant aliens who are allowed to perform certain types of service are:

| Class of worker | | Symbol on I-94 | Employment Permitted |
|---|---|---|---|
| (1) | Ambassador, Consular officers and their immediate families | A-1 | May accept employment with permission from the Department of State and the Immigration Service. I-94 will be stamped: "Employment Authorized." |
| (2) | Other foreign government officials and their immediate families. | A-2 | Same as for A-1. |
| (3) | Treaty trader, spouse and children<br>Treaty investor, spouse and children | E-1<br>E-2 | Admitted to work for a specific employer or as a sole proprietorship or partnership. |
| (4) | Student | F-1<br>M-1 | May accept employment of up to 20 hours per week with permission from the Immigration Service. I-94 will be stamped: "Employment Authorized." Employment should not displace a USC or permanent resident alien. |
| (5) | Representatives of foreign governments to international organization such as the U.N. | G-1<br>G-2<br>G-3 | May accept employment if approved by the Department of State and the |

| Class of worker | | Symbol on I-94 | Employment Permitted |
|---|---|---|---|
| | | G-4<br>G-5 | Immigration Service. I-94 will be stamped: "Employment Authorized." |
| (6) | Temporary worker of distinguished merit and ability | H-1 | Admitted to work on a petition of an employer. Can only work for that employer unless permission is granted by the Immigration Service to change employers. |
| (7) | Temporary workers performing services unavailable in the U.S. | H-2 | Same as for H-1. |
| (8) | Trainee | H-3 | Same as for H-1. |
| (9) | Exchange visitor<br>Spouse and children | J-1<br>J-2 | May be admitted to work in a specific program or may be granted permission to work after entry. I-94 will be stamped: "Employment Authorized." |
| (10) | Fiancé or fiancée of USC entering solely to conclude valid marriage<br>Child of a K-1 | K-1<br>K-2 | May accept employment upon approval of the Immigration Service. I-94 will be stamped: "Employment Authorized." |
| (11) | Intra company transferee entering to continue employment with same employer.<br>Dependents. | L-1<br>L-2 | Admitted upon petition by an employer. May only work for that employer.<br>May accept employment if approved by the Immigration Service. I-94 will be stamped: "Employment Authorized." |
| (12) | NATO representatives | NATO-1<br>NATO-2<br>NATO-3<br>NATO-4<br>NATO-5<br>NATO-6<br>NATO-7 | Dependents may accept employment with approval of the Immigration Service. I-94 will be stamped: "Employment Authorized." |

*b.* Immigrant aliens who are not allowed to perform services are:

| Class of worker | | Symbol on I-94 | Employment Status |
|---|---|---|---|
| (1) | Attendant, servant or personal employee of an A-1 or A-2 | A-3 | May not accept employment. |
| (2) | Temporary visitor for business | B-1 | May not accept employment. |
| (3) | Temporary visitor for pleasure | B-2 | May not accept employment. |
| (4) | Alien in transit | C-1<br>C-2<br>C-3 | May not accept employment. |
| (5) | Transit without a visa | TRWOV | May not accept employment. |
| (6) | Seaman | D-1<br>D-2 | May not accept employment. |
| (7) | Dependent of student | F-2<br>M-2 | May not accept employment. |

| Class of worker | | Symbol on I-94 | Employment Status |
|---|---|---|---|
| (8) | Spouse or child of an H-1, H-2 or H-3 | H-4 | May not accept employment. |
| (9) | Representative of foreign information media including spouse and children | I | May not accept employment. |

This rule is intended to implement Iowa Code section 96.5(10).
[**ARC 8789C**, IAB 1/8/25, effective 2/12/25]

**871—24.48(96) References.**

**24.48(1)** All references to the Code of Federal Regulations (CFR) and United States Code (U.S.C.) in this chapter are to the laws as amended as of November 1, 2024.

**24.48(2)** All references to the Social Security Act refer to 42 U.S.C. Sections 301-1397mm, as amended as of November 1, 2024.

**24.48(3)** All references to the Federal Unemployment Tax Act refer to 23 U.S.C. Sections 3301-3311, as amended as of November 1, 2024.

**24.48(4)** All references to the Workforce Innovation and Opportunity Act refer to 29 U.S.C. Sections 3101-3361, as amended as of November 1, 2024.

**24.48(5)** All references to the Americans with Disabilities Act of 1990 refer to 42 U.S.C. Sections 12101-12213, as amended as of November 1, 2024.

**24.48(6)** All references to Public Law 96-499 refer to the Foreign Investment in Real Property Act of 1980, as amended as of November 1, 2024.

**24.48(7)** All references to the Trade Act of 1974 refer to 19 U.S.C. Sections 2101-2497b, as amended as of November 1, 2024.

**24.48(8)** All references to the Federal Employer's Compensation Act refer to 20 CFR Sections 10.0-25.203, as amended as of November 1, 2024.

**24.48(9)** All references to the Ex-Service Member's Unemployment Compensation Act of 1958 refer to 10 U.S.C. Sections 1141-1155, as amended as of November 1, 2024.

**24.48(10)** All references to the Immigration and Nationality Act refer to 8 U.S.C. Sections 1101-1537, as amended as of November 1, 2024.

**24.48(11)** All references to the Railroad Unemployment Insurance Act refer to 45 U.S.C. Sections 351-369, as amended as of November 1, 2024.

**24.48(12)** All references to the Interstate Handbook for Interstate Claims-Taking refer to ET Handbook No. 392, published by the United States Department of Labor Employment and Training Administration, as amended and in effect as of November 1, 2024.

This rule is intended to implement Iowa Code chapter 96.
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# CHAPTER 25
# BENEFIT PAYMENT CONTROL

[Prior to 9/24/86, Employment Security[370]]
[Prior to 3/12/97, Job Service Division [345] Ch 5]

Chapter rescission date pursuant to Iowa Code section 17A.7: 12/18/29

**871—25.1(96) Definitions.**

*"Administrative penalty"* means the disqualification of a claimant from the receipt of benefits due to fraud or misrepresentation or the willful and knowing failure to disclose a material fact for a period of not more than the remaining benefit year, including the week in which such determination is made.

*"Allegation of fraud"* means any form of communication from a party that implies fraudulent activity.

*"Anonymous tip"* means information about suspected fraudulent activity received from a party who wishes to remain unidentified.

*"Appeals"* means a request for a review by an appeals authority of the department from any determination made by a representative of the department, including any request for a review by a higher appeals authority of a decision made by a lower appeals authority. It also includes any appeal from a determination of a representative, or any appeal or request for a hearing by a properly affected party.

*"Benefits"* means the same as defined in Iowa Code section 96.1A(5).

*"Claim"* means the same as defined in 871—subrule 24.1(9).

*"Claimant"* means the same as defined in 871—subrule 24.1(10).

*"Earnings"* means the remuneration for services performed.

*"Employing unit"* means the same as defined in Iowa Code section 96.1A(15).

*"Evidence"* means any witnesses' testimony, records, documents, copies of documents, statements, demonstrations, or any other relevant testimony or concrete objects before the department or at an employment appeal hearing or trial of an issue for the purpose of inducing belief in the minds of the hearing officer, department, court or jury as to the truth of a contention.

*"Fact-finding interview"* means a discussion between a claimant or an employer and an investigator for the purpose of obtaining from the claimant or employer a statement containing information on a specific eligibility or disqualification issue.

*"Fraud"* means the intentional misuse of facts or truth to obtain or increase unemployment insurance benefits for oneself or another or to avoid the verification and payment of employment security taxes; a false representation of a matter of fact, whether by statement or by conduct, by false or misleading statements or allegations; or the concealment or failure to disclose that which should have been disclosed, which deceives and is intended to deceive another so that they, or the department, shall not act upon it to their, or its, legal injury.

*"Fraudulent activity"* means actions based on or in the spirit of fraud.

*"Initial determination"* means the first determination with respect to a claim or a request for determination of insured status.

*"Intent"* means the design, resolve, or determination with which an individual or group of individuals acts in order to reach a preconceived objective.

*"Investigator"* means an investigation and recovery section investigator.

*"Local office"* means the workforce development center office in which claims functions are performed.

*"Material fact"* means a fact that necessarily has some bearing on the subject matter, such as is necessary to determine the issue.

*"Misconduct"* means the same as defined in Iowa Code section 96.5(2).

*"Misrepresentation"* means to give misleading or deceiving information or omit material information; and to present or represent in a manner at odds with the truth.

*"Month"* means the time beginning with any day of one month to the corresponding day of the next month, or if there is no corresponding day, then through the last day of the next month.

*"Overpayment"* means the amount of unemployment insurance benefits erroneously paid to a claimant due to error, misrepresentation, or fraud.

*"Social security number"* means the same as defined in 871—subrule 24.1(31).

*"Surveillance"* means the observance of activities.

*"Wage cross match audit"* means the computerized quarterly cross match of benefits received by Iowa claimants and wages reported by employers to the state of Iowa.

*"Wages"* means the same as defined in Iowa Code section 96.1A(40).

*"Week"* means the same as defined in Iowa Code section 96.1A(41).

This rule is intended to implement Iowa Code chapter 96.

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.2(96) Policy of the investigation and recovery unit.** The policy of the investigation and recovery unit is to:

**25.2(1)** Take aggressive action to prevent, detect, and deter benefits paid through error and to investigate and penalize fraud;

**25.2(2)** Maximize the recovery of benefit overpayments; and

**25.2(3)** Seek prosecution when the unit believes a person has committed a serious violation of the employment security law.

This rule is intended to implement Iowa Code sections 96.11(1), 96.16, and 96.17(2).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.3(96) Functions of the investigation and recovery unit.** The functions of the investigation and recovery unit are to:

**25.3(1)** Investigate and make determinations on issues within the unit's scope that are referred by the general public, employing units, agency personnel, other agencies, or anonymous sources. The unit examines allegations of the following type:

*a.* Failure to report earnings while receiving benefits.

*b.* Collusion between claimant and employer, or between two or more claimants, in fraudulently obtaining or attempting to obtain benefits.

*c.* Utilizing the identity of another to fraudulently obtain or attempt to obtain benefits.

*d.* Employing units fraudulently attempting to evade unemployment insurance coverage and tax assessment. The unit determines the resulting status of claimants employed by these entities.

*e.* Claims involving contrived or fictitious employment (e.g., family relationships).

*f.* Cases of possible concurrency in claiming workers' compensation, railroad retirement, or social security while receiving benefits. Also concurrency of claiming benefits outside of Iowa while receiving unemployment insurance benefits. Possible welfare concurrency will be referred to the appropriate agency.

*g.* Issues of availability, capability, voluntary leaving of employment, refusal of employment, misconduct, intervening employment, and industrial controversy where the facts are complex and field work is necessary to establish proper findings.

*h.* Validity of alien registration numbers through a cross-check with U.S. Citizenship and Immigration Services. If an alien has falsely claimed to be a U.S. citizen or used a false alien registration card in order to receive benefits, prosecution cases will be prepared when appropriate. "Alien" means the same as described in rule 871—24.47(96).

**25.3(2)** Collect refunds of overpayments resulting from determinations of claimant fraud.

**25.3(3)** Prepare all cases for prosecution.

*a.* Submit cases to the county attorneys.

*b.* Assist county attorneys and others by presenting evidence and giving testimony in court proceedings.

**25.3(4)** Formulate methods and procedures to prevent and detect all types of fraud by claimants, employing units, and unemployment insurance services personnel.

**25.3(5)** Provide liaison with local, state, and federal law enforcement agencies.

**25.3(6)** Testify and produce evidence before hearing officers and employment appeal board hearings regarding fraudulent activities.

**25.3(7)** Conduct internal audits as established by federal guidelines.

This rule is intended to implement Iowa Code sections 96.11(1), 96.16, and 96.17(2).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.4(96) Allegation of claimant fraud.**

**25.4(1)** If the party alleging fraud supplies sufficient information to proceed with an investigation, the information is to be forwarded to the investigation and recovery unit, which will advise the alleging party that the unit will fully investigate. The unit is to provide its findings to the alleging party if the investigation may impact the alleging party's employer account of claim for benefits.

**25.4(2)** If the results of the investigation indicate that a disqualification would have resulted for the period benefits were paid, the unit is to schedule an informal fact-finding interview to allow testimony by the parties. The unit may recommend separate fact-finding interviews if necessary.

This rule is intended to implement Iowa Code sections 96.16 and 96.11(10).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.5(96) Allegation of employing unit fraud.**

**25.5(1)** If the party alleging fraud supplies sufficient information to proceed with an investigation, the information is to be forwarded to the investigations and recovery unit. The unit will advise the alleging party that the unit will fully investigate. The unit may seek the assistance of the tax unit staff. The unit is to provide its findings to the alleging party if the investigation may impact the alleging party's employer account of claim for benefits.

**25.5(2)** If the results of the investigation indicate that misrepresentation occurred on the part of the employer, the unit is to schedule an informal fact-finding interview to allow testimony by the parties.

This rule is intended to implement Iowa Code sections 96.16 and 96.11(10).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.6(96) Investigation of fraud (procedure).**

**25.6(1)** Upon receipt of an allegation of fraudulent activity, the investigation and recovery unit will prepare an investigation file containing all necessary documents, assign an investigation number, and assign the case to an investigator. All investigation files will remain confidential.

**25.6(2)** The investigator will make a thorough review of all documents contained within the file and determine what issues need to be investigated. Documented evidence will be obtained from any necessary source.

**25.6(3)** An investigator has the authority to request all necessary information in the investigation of any error or potential fraudulent activity committed by a claimant, employing unit, or other party. Likewise, testimony may be taken from any person who has relevant information or records. Any person, when requested by an investigator to produce records or give testimony, must be available to give testimony to the department or to produce records within a reasonable time. If any person does not comply with the investigator's request for the person to give testimony to the department or produce records, a subpoena may be issued summoning the person to appear before the investigator to give testimony or present the records.

If the investigator determines that any request for the voluntary production of pertinent records might endanger the existence of such records, the investigation and recovery unit may immediately issue a subpoena duces tecum to ensure the production of such records.

**25.6(4)** The investigation and recovery unit may seek the assistance of field auditors.

**25.6(5)** The investigator may surveil any relevant individual or location.

**25.6(6)** Upon completion of the investigation, a determination shall be made as to whether fraudulent activity has occurred. If there is fraudulent activity, appropriate corrective action shall be initiated. The unit is to provide its findings to the alleging party if the investigation may impact the alleging party's employer account of claim for benefits. The case may be prepared for prosecution if warranted.

**25.6(7)** A detailed report will be entered in the case management system upon completion.

This rule is intended to implement Iowa Code sections 96.16, 96.11(6) and 96.11(7).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.7(96) Determination of overpayment by reason of claimant's fault or fraud.**

**25.7(1)** The investigation and recovery unit may determine that a claimant has received benefits to which the claimant was not entitled due to the claimant's own fault, the employer's fault, the agency's fault, or fraud as provided in Iowa Code section 96.16.

**25.7(2)** A dated notice of such determination shall promptly be mailed to the claimant at the claimant's last-known address. Such notice shall advise the claimant of the reason for and total amount of the overpayment as well as the benefit weeks involved. The determination is final unless the claimant, within ten calendar days of the date shown on the notification, files a written request for review or appeal.

**25.7(3)** Upon receiving a written request for review, the investigation and recovery unit, based upon such facts as it has or may acquire, may affirm, modify, or reverse the prior decision or refer the matter to an administrative law judge. The claimant shall be promptly notified of such decision or referral. Unless the claimant files an appeal within ten calendar days after the date of mailing, such decision shall be final.

**25.7(4)** The claimant may directly appeal the decision, without request for review, to the department of inspections, appeals, and licensing.

**25.7(5)** Claimants affected by determinations made in accordance with this rule have the same rights to further appeal as are provided in Iowa Code section 96.6.

**25.7(6)** When a determination has become final, the benefits shall be recovered.

*a.* If a claimant does not immediately repay the overpayment on demand, recovery of overpayments due to misrepresentation or fraud may also include the filing of a notice of lien or other civil action. Upon finalization of the determination of overpayment by reason of a claimant's fault or fraud, interest shall accrue at a rate of 1/30th of 1 percent per day until the overpayment is paid in full.

| Amount of Original Overpayment | Minimum Monthly Payments | Number of Months Required to Liquidate the Overpayment |
|---|---|---|
| Under $199 | $ 25 | 1 to 8 |
| $200 to $399 | $ 50 | 4 to 8 |
| $400 to $599 | $ 75 | 5 to 8 |
| $600 to $799 | $ 90 | 6 to 9 |
| $800 to $999 | $ 100 | 8 to 10 |
| $1,000 to $1,499 | $ 150 | 6 to 10 |
| $1,500 to $1,999 | $ 200 | 7 to 10 |
| $2,000 to $2,999 | $ 250 | 8 to 12 |
| $3,000 and over | $ 300 | 10 to — |

*b.* The department shall mail a first statement of overpayment to the claimant's last-known address. This statement will request full repayment to the department.

*c.* If a claimant fails to respond to the first statement of overpayment, a demand letter shall be sent 30 days later. The demand letter notifies the claimant that full repayment must be made. If the claimant cannot make full repayment, the department will consider a monthly repayment agreement. Monthly amounts based on the minimum repayment agreement schedule below will be printed on the demand letter. The first repayment is expected ten days from the date of the demand letter and the additional repayments every 30 days thereafter until the debt is paid in full. The following minimum repayment agreement is acceptable to the department, though the department reserves the right to accept or reject any proposed repayment agreement.

*d.* After sending the demand letter, the department may proceed with any appropriate lien or civil action to collect the debt, which would include but not be limited to a judgment in a court having jurisdiction over the matter. The department may pursue the same type of action where a claimant defaults on a repayment agreement.

*e.* If the department receives a cash repayment of an overpayment, the department shall issue a receipt and mail it to the claimant's last-known address. If the department receives a repayment that is not identified by a social security number, name, or other means of identification, the department will retain the money until such time as a positive identification can be made and proper credit given to the claimant.

*f.* An overpayment to the claimant will cause the employer to be relieved of charges except when the overpayment is a result of payment of a back pay award.

*g.* An underpayment of $5 or less will not be set up and paid to an individual unless the individual requests the payment in writing.

This rule is intended to implement Iowa Code sections 96.1A(37), 96.3(3), 96.3(7), 96.4(3), 96.5(1), 96.5(3), 96.6(1), 96.8(5), 96.11(1), and 96.16.

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.8(96) Recovery of benefit overpayments when benefits are erroneously received.**

**25.8(1)** *Good faith overpayment.* The department shall recover good faith overpayments. The department shall issue the overpayment decision to the claimant's last-known address or through the claimant's preferred contact method. Once the overpayment amount has been established, an overpayment schedule will be established to leave an audit trail even if the claimant fully repays the overpayment in one payment.

*a.* The department shall mail a first statement of overpayment to the claimant's last-known address. This statement will request full repayment.

*b.* If a claimant fails to respond to the first statement of overpayment, a demand letter shall be sent 30 days later notifying the claimant that full repayment must be made. If the claimant cannot make full repayment, the department will consider a monthly repayment agreement.

*c.* If an individual has acted in good faith and is without fault in claiming federal unemployment compensation under Unemployment Compensation Federal Employees (UCFE), Unemployment Compensation Ex-servicemembers (UCX), Trade Readjustment Allowances (TRA), or Disaster Unemployment Assistance (DUA), and it is subsequently determined that the individual is not entitled to the benefits, the department has the right to recover the benefits in accordance with the procedure outlined in subrule 25.8(1). Any federal unemployment compensation overpayments recovered will be credited to the appropriate account of the United States. Three years after the federal unemployment compensation overpayment, if the department concludes that continued collection efforts would result in diminishing returns, then the unrecovered amount will be removed from the department accounting records. An administrative record will be maintained for possible collection through offset or other appropriate method. If no collection action has taken place during the three years after the department has removed the overpayment from its accounting records, then the overpayment will be disposed of.

Any overpayment of TRA, Trade Adjustment Assistance, or DUA will be offset at the rate of 50 percent of the benefit amount otherwise payable to the individual for unemployment insurance, extended benefits, or any other federal unemployment compensation program.

**25.8(2)** *Misrepresentation.*

*a.* The department may attempt to collect the overpayment by filing a lien on the claimant in the manner provided in Iowa Code section 96.14(3).

*b.* The employer's account may be relieved of overpayments caused by fraud or misrepresentation.

*c.* If it is found that an individual has received benefits through misrepresentation and has been assessed with an overpayment under UCFE or UCX, and criminal charges are not involved, the department will limit deduction from future benefits to a two-year period following the original determination of overpayment. If an individual is convicted for fraud, the department shall have the right to recover any resulting overpayment in accordance with the procedure outlined in subrule 25.8(2).

This rule is intended to implement Iowa Code sections 96.7(2), 96.11(1), 96.11(11), 96.11(13), 96.14(3), 96.16, 96.20, and 96.29.

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.9(96) Administrative penalties.**

**25.9(1)** An administrative penalty may be imposed on a claimant as per Iowa Code section 96.5(8).

**25.9(2)** Penalties.

*a.* Any penalties imposed by this rule shall be in addition to those imposed by Iowa Code section 96.16.

*b.* The general guide for disqualifications for deliberate falsification for the purpose of obtaining or increasing unemployment insurance benefits is listed below. It is intended to be used as a guide only and is not a substitute for the personal subjective judgment of the investigator. The administrative penalty recommended for falsification ranges from three weeks through the end of the benefit year. The department may also consider the filing of criminal charges whenever an administrative penalty is imposed against a claimant. If the same offense is repeated, loss of benefits through the end of the benefit year will result.

*c.* The department shall issue a determination that sets forth the specific penalty being applied. The investigator will determine the degree and severity of the penalty based upon the nature of the offense and the facts.

**25.9(3)** Sources of information concerning the application of an administrative penalty shall be the same as those pertaining to fraud and overpayment, namely:

*a.* Comparative analysis of employer wage reports and benefit payments.

*b.* Information obtained by a local office.

*c.* Tips and leads from other sources.

*d.* Cross-checking of information regarding vital statistics from the department of health and human services.

*e.* Review of claims using social security numbers not issued by the social security administration.

*f.* Cross-checking of information from the Iowa centralized employer registry.

*g.* Cross-checking of information with the National Directory of New Hires.

*h.* Cross-checking of information on incarcerated individuals from the department of corrections.

*i.* Cross-checking of information with fraud detection tools identified by the department.

**25.9(4)** The claimant shall be notified of the possible application of the administrative penalty by Form 65-5315, Notice of Unemployment Insurance Fact-Finding Interview, in the same manner a claimant is notified of a possible overpayment.

**25.9(5)** The claimant shall be afforded an opportunity to give testimony, either refuting or affirming the allegation of intent to defraud and may be represented by legal counsel.

**25.9(6)** In the event any claimant is aggrieved by the representative's determination assessing an administrative penalty or by the severity of the penalty assessed, such claimant shall have the same protest and appeal rights as provided for all other determinations.

**25.9(7)** A criminal conviction of a claimant for fraud or a court order requiring restitution for the amount of the overpayment shall not preclude the investigation and recovery unit from also imposing an administrative penalty denying further benefits to the claimant for a period of time not to exceed the remainder of said claimant's benefit year and including the week in which such determination is made by the investigation and recovery unit.

This rule is intended to implement Iowa Code sections 96.5(8), 96.11(1), and 96.11(10).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.10(96) Prosecution on overpayments.**

**25.10(1)** When, after an investigation, the department determines an overpayment occurs due to misrepresentation or fraud, the case shall be given a thorough and detailed review to determine if it may be referred to a county attorney or the attorney general for prosecution for fraud.

**25.10(2)** Restitution or the establishment of a repayment plan of an amount overpaid to a claimant due to fraudulent misrepresentation or failure to disclose a material fact does not preclude the investigation and recovery unit from instituting criminal proceedings against the claimant.

This rule is intended to implement Iowa Code sections 96.11(1) and 96.16(2).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.11(96) Prosecution for fraud (procedure).**

**25.11(1)** If prosecution is warranted, supportive documentation and evidence will be requested and thoroughly reviewed by the investigator.

**25.11(2)** A handwriting sample may be taken from claimant and submitted for investigation.

**25.11(3)** A summary of the case will be prepared and the case taken to the county attorney for filing of criminal charges.

**25.11(4)** Upon request by the county attorney, the investigator may make recommendations regarding plea bargaining, dismissals, and sentencing and participate in the mediation process.

**25.11(5)** Investigators may testify and produce evidence at district court and grand jury proceedings.

This rule is intended to implement Iowa Code sections 96.11(1) and 96.16(2).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.12(96) Wage verification procedure.**

**25.12(1)** Each quarter, wage verification documents are mailed to selected employers requesting wage information on specific claimants with regard to benefit payments.

**25.12(2)** The completed documents are sent to the investigation and recovery unit for review. Potential cases of conflict will result in an investigation assignment. Claimants will be notified by means of Form 65-5332, Audit Notice of Potential Overpayment, and given an opportunity to respond. If it is determined that an overpayment has occurred, the investigator will prepare Form 68-0031, Decision Overpayment Worksheet, on which the amount, weeks, type, and reason for the overpayment are identified. Claimants are notified of the determination on Form 65-5352, Unemployment Insurance Decision.

**25.12(3)** An employer may choose to participate in the automated wage verification procedure by following the electronic submission guidelines.

**25.12(4)** An employer that fails to respond to a request for wage information pertaining to specific claimant(s) will be charged a fee of $25 per claimant.

This rule is intended to implement Iowa Code section 96.11(1).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.13(96) Duplicate benefit warrants.**

**25.13(1)** *Undelivered warrant.* Any warrant issued in payment of benefits that is returned undelivered to the department will be canceled 90 days after the original issue date unless it can be mailed to the correct address.

**25.13(2)** *Canceled warrant.* Warrants are canceled as per Iowa Code section 96.11(7). Any individual who has an outdated warrant may contact the department for assistance.

**25.13(3)** *Lost and uncashed warrant.*

*a.* The payee of a warrant issued in payment of benefits that is lost, stolen, mutilated, destroyed, or canceled under conditions cited in subrule 25.13(1) or 25.13(2) may contact the department for assistance.

*b.* The department will ascertain whether the warrant has been cashed and take the following action:

(1) If the warrant has been cashed, the procedure in subrule 25.13(4) shall be followed.

(2) If the warrant has not been cashed, the department shall issue a stop payment order on the warrant and issue Form 68-0163, Affidavit and Agreement for Issuance of Duplicate Warrant, to the individual. The completed affidavit is a sworn statement that the original warrant was not received and that the warrant will be surrendered voluntarily if received by the claimant. The claimant should be warned that the warrant cannot be cashed after the stop payment order is in effect.

*c.* The affidavit shall be personally prepared in duplicate by the claimant, and the claimant's signature on the affidavit must be notarized. The affidavit shall be transmitted in duplicate to the department.

*d.* The department will then request that the director of the department of administrative services issue a duplicate warrant, which the department will mail to the claimant.

*e.* If the claimant should cash the original warrant after the stop payment order is in place, an overpayment shall be set up and the department may refer the matter for criminal prosecution.

*f.* If the claimant should find the original warrant after the duplicate warrant has been issued, the claimant will send the original warrant to the department.

**25.13(4)** *Forged warrants.*

*a.* In the event that the original warrant has been endorsed by and paid to someone allegedly not authorized to receive payment, the payee whose endorsement was forged will be given the opportunity to examine the endorsement on the copy of the warrant.

*b.* If the payee determines that the endorsement is a forgery, the following action shall be taken:

(1) The claimant will prepare Form 68-0320, Affidavit as to Forged Endorsement, in duplicate, and the claimant's signature must be notarized.

(2) The claimant is required to file a police report with the local law enforcement agency and return a copy of the police report to the department.

(3) The claimant will send a copy of the original warrant, the notarized affidavit, and a copy of the police report to the department for review.

*c.* The investigation and recovery bureau will make a handwriting analysis to determine if the warrant was forged. If the handwriting is determined to be a forgery, a duplicate warrant will be issued to the payee.

**25.13(5)** *Employer account credit.* At the time of cancellation of any outstanding benefit warrant, the employer account shall be credited with the amount of the warrant so canceled. The reissuance of any benefit warrant canceled in subrule 25.13(1) or 25.13(2) shall be charged to the employer account.

This rule is intended to implement Iowa Code sections 96.9(7) and 96.11(1).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.14(96) Payments of benefits due a deceased person.**

**25.14(1)** An eligible week for a deceased claimant will be one where the week is claimed by the individual prior to death. If benefits are due a deceased person, the benefits are paid to the person or persons who have been issued letters testamentary or of administration pursuant to an application filed within 30 days after the claimant's death.

**25.14(2)** In the event that no application for letters testamentary or of administration has been filed within 30 days after the claimant's death, the benefits that were due will be paid to the decedent's surviving spouse, if any; or, if no spouse survives the decedent and the decedent is survived by an unmarried minor child or children, the benefits will, at the discretion of the department, be paid:

*a.* To the guardian or guardians of unmarried minor child or children for their benefit; or

*b.* To the person or institution who or which the department finds assumed the obligation of providing support for or maintenance of such minor child or children; or

*c.* To any person who the department finds has furnished to such child or children necessaries of a value equaling or exceeding the amount of benefits; or

*d.* To any person who the department finds has paid expenses of the claimant's last illness or burial expenses in an amount equaling or exceeding the amount of benefits.

**25.14(3)** The director of the department of administrative services will void any unredeemed warrant or warrants payable to a deceased person. Once the warrant is surrendered, the director of the department of administrative services will issue a new warrant or warrants bearing the same dates and numbers and made payable to the entitled person or persons under the provisions of this rule. The issuance of the new warrant or warrants fully discharges the department of its obligation with respect to the claims covered thereby and no other person may claim or assert any right to them.

**25.14(4)** Any person claiming entitlement to the payment of benefits under this regulation shall present the claim in writing within 60 days after the death of the claimant and shall offer proof thereof in such form as the department may require; however, the department may, upon good cause shown, extend the time for presentation of a claim. In the event no timely claim is made for the benefit payment, the benefits will not be paid but will remain in the unemployment compensation fund.

This rule is intended to implement Iowa Code sections 96.9(3), 96.9(7), and 96.11(1).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.15(96) Back pay—benefit recovery and charging.**

**25.15(1)** Recovery and charging of back pay is governed by Iowa Code section 96.3(8).

*a.* The department shall first attempt to reach an agreement with the individual and the employer.

*b.* The burden of proof is on the employer to establish the dollar amount of the back pay award that is remuneration for lost wages and the specific time period to which the remuneration applies.

**25.15(2)** If the department reaches an agreement with the individual and the employer as per Iowa Code section 96.3(8), then the employer's account shall be relieved of benefit charges in an amount equal

to the amount remitted by the employer to the department. If the department fails to reach an agreement, then the benefit charges are not relieved until the benefits paid to the individual are recovered.

This rule is intended to implement Iowa Code section 96.3(8).

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.16(96) State payment offset.** An individual who is owed a payment from the state of at least $50 and owes an overpayment of benefits of at least $50 is subject to an offset against the individual's payment from the state to recover all or a part of the overpayment and to reimburse the department of revenue for administrative costs to execute the offset. All overpayments, whether fraud or nonfraud, are included in this process.

**25.16(1)** The department will provide the department of revenue with the claimant's name and social security number.

**25.16(2)** The department of revenue will process the offset according to Iowa Code section 421.65.

**25.16(3)** In the event that the amount of the offset exceeds the remaining overpayment, the department will issue to the individual a payment equal to the amount of the excess.

This rule is intended to implement Iowa Code section 96.11.

[**ARC 8361C**, IAB 11/13/24, effective 12/18/24]

**871—25.17(96) Federal payment offset.** Pursuant to Section 303(m) of the federal Social Security Act (42 U.S.C. §503) and 26 U.S.C. §6402(f), both as amended and in effect as of October 23, 2024, the department will utilize the treasury offset program in order to collect covered unemployment compensation.

This rule is intended to implement Iowa Code section 96.3(7).

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# CHAPTER 26
# CONTESTED CASE PROCEEDINGS

[Prior to 9/24/86, Employment Security[370] Ch 6]
[Former 345—6.5(96) and 6.8(96) transferred to 345—9.2(17A,96) and 9.1(17A,96) respectively, IAC 6/10/92]
[Prior to 3/12/97, Job Service Division [345] Ch 6]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/29/30

**871—26.1(17A,96) Applicability.** The rules in this chapter govern the procedures for contested case proceedings brought pursuant to Iowa Code chapter 96.
[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.2(17A,96) Definitions.** Terms defined in the Iowa employment security law and the Iowa administrative procedure Act and that are used in these rules shall have the same meaning as provided by such laws. In addition, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

*"Contested case"* means a proceeding defined in Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case in Iowa Code section 17A.10A. It specifically includes any appeal from a determination of a representative of the department or any appeal or request for a hearing by an employer or employing unit from an experience rating, charge determination or other decision affecting its liability. Except as provided in subrule 26.16(4), a final decision of the employment appeal board of the department of inspections, appeals, and licensing shall constitute final agency action. A presiding officer's decision shall be the final decision of the department if there is no appeal therefrom to the employment appeal board of the department of inspections, appeals, and licensing or if the appeal is made directly to the district court in lieu of filing an appeal with the employment appeal board of the department of inspections, appeals, and licensing.

*"Presiding officer"* means an administrative law judge employed by the department of inspections, appeals, and licensing.
[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.3(17A,96) Appeal of unemployment benefits contested case.**

**26.3(1)** An unemployment benefits contested case must be filed by a party within ten calendar days of mailing the initial determination of benefits as determined by the postmark or date stamp to the party's last-known address. The appeal must be in writing and delivered by mail, facsimile, email, online, or in person to the department of inspections, appeals, and licensing's unemployment insurance appeals bureau at UIAB Administrative Hearings Division, 502 East 9th Street, Des Moines, Iowa 50319. An online appeal is filed by completing and submitting an online appeal form available on the workforce development website.

**26.3(2)** The appeal should state the following:

*a.* The name, address and social security number of the claimant;

*b.* A reference to the decision from which the appeal is taken; and

*c.* The grounds upon which the appeal is based.

**26.3(3)** Notwithstanding the provisions of subrule 26.3(1), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 calendar days from the mailing date of the quarterly statement of benefit charges.

**26.3(4)** Also notwithstanding the provisions of subrule 26.3(1), a reimbursable employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 15 calendar days from the mailing date of the quarterly billing of benefit charges.
[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.4(17A,96) Appeal of employer liability contested case.**

**26.4(1)** An appeal from a decision of the tax bureau of the department concerning employer status and liability, assessments, contribution (tax) rate, successorship, workers' status, and all questions regarding coverage of a worker or group of workers, must be filed by a party no later than 30 calendar days of mailing the tax bureau's decision as determined by the postmark or date stamp to the party's last-known address. The appeal must be in writing and delivered by mail, facsimile, email, online, or in person to Tax Bureau, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

**26.4(2)** The appeal should state the following:

*a.* The name, address, and Iowa employer account number of the employer;

*b.* The name and title of the person filing the appeal;

*c.* A reference to the decision from which the appeal is taken; and

*d.* The grounds upon which the appeal is based.

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.5(17A,96) Notice of hearing.**

**26.5(1)** Notices of hearing shall be sent to all parties at their last-known address at least ten days in advance of the hearing date by first-class mail, email, or other electronic means. Notices of hearing shall contain the information required by Iowa Code section 17A.12(2) and any additional information required by statute or rule.

**26.5(2)** Unless otherwise precluded, the parties in a contested case may waive any provision of this chapter pursuant to Iowa Code section 17A.10.

**26.5(3)** A hearing will be promptly scheduled and conducted by telephone unless a party requests that it be held in person. In-person hearings will be located at the Wallace State Office Building or at a site designated by UIAB. The party requesting an in-person hearing will ordinarily be required to travel the greater distance if all parties are not located near the same hearing site. A request for an in-person hearing may be denied if factors such as the distance between the parties, the number of parties or the health of any party make it impractical or impossible to conduct a fair hearing in person. An in-person hearing may be scheduled at the discretion of the presiding officer to whom the contested case is assigned or by the manager or chief administrative law judge of the appeals bureau. At the discretion of the presiding officer, witnesses or representatives may be allowed to participate via telephone in an in-person hearing.

**26.5(4)** Whenever it appears that other parties should be joined to dispose of all issues in a contested case, the presiding officer may so order and may grant such continuance to hold such additional proceedings upon notice to all parties.

**26.5(5)** Any number of appeals involving similar issues of law or fact may be consolidated for hearing so long as no substantial rights of any party would be prejudiced by so doing.

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.6(17A,96) Recusal.** A presiding officer shall withdraw from participation in the hearing or the making of any decision in a contested case in accordance with provisions outlined in chapter 481—10.9(17A).

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.7(17A,96) Withdrawals, dismissals, and continuance.**

**26.7(1)** An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of a presiding officer. Requests for withdrawal may be made in writing or orally, provided the oral request is recorded by a presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

**26.7(2)** A hearing may be postponed by the presiding officer for reasons stated in 481—subrule 10.17(3), either upon the presiding officer's own motion or upon the request of any party in interest. A party's request for postponement should be made not less than three days prior to the scheduled hearing and may be in writing or oral, provided the oral request is recorded by the presiding officer. A party shall not be granted more than one postponement except in the case of extreme emergency.

**26.7(3)** For good cause shown, the presiding officer may reopen the record, and with notice to all parties, schedule another hearing.

*"Good cause,"* for purposes of this rule, is defined as an emergency circumstance that is beyond the control of the party and that prevents the party from being able to participate in the hearing. Examples of good cause include but are not limited to death, sudden illness, or accident involving the party or the party's immediate family (spouse, partner, children, parents, siblings) or other circumstances evidencing an emergency situation that was beyond the party's control and was not reasonably foreseeable.

Examples of circumstances that do not constitute good cause include but are not limited to a lost or misplaced notice of hearing, confusion as to the date and time for the hearing, failure to follow the directions on the notice of hearing, oversleeping, or other acts demonstrating a lack of due care by the party.

**26.7(4)** If necessary, the presiding officer may hear, ex parte, additional information regarding the request for reopening. The granting or denial of such a request may be used as grounds for appeal to the employment appeal board of the department of inspections, appeals, and licensing upon the issuance of the presiding officer's final decision in the case.

**26.7(5)** If good cause for reopening has not been shown, the presiding officer may make a decision based upon whatever evidence is properly in the record or, in appropriate cases, may enter default as set forth in rule 871—26.13(17A,96).

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.8(17A,96) Discovery.** Discovery procedures are subject to rule 481—10.13(17A).

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.9(17A,96) Ex parte communications.** Ex parte communication is subject to rule 481—10.23(17A).

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.10(17A,96) Motions.** Motion practice is subject to rule 481—10.15(10A,17A) with the following exceptions:

1. Written responses to motions may be filed within five days after the motion is served.
2. Motions pertaining to the hearing must be filed and served at least five days prior to the hearing date.

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.11(17A,96) Prehearing conference.** Prehearing conferences are subject to rule 481—10.16(10A,17A), with the exception that requests for a prehearing conference must be filed within three days prior to hearing.

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.12(17A,96) Subpoenas for witnesses and documents.** Subpoenas are subject to rule 481—10.14(10A,17A) and Iowa Code section 17A.13, with the exception that subpoena requests must be filed within three days prior to hearing.

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.13(17A,96) Conduct of hearings.** The conduct of hearings is governed by rule 481—10.20(17A), with the exception of the additional following subrules:

**26.13(1)** The presiding officer shall begin each hearing with a brief statement identifying the parties and issues, outlining the history of the case, advising the parties of their appeal rights and announcing what matters, if any, will be officially noticed. Any party may inspect and use any portion of the administrative file necessary for the presentation of its case. The administrative file may include information from the claimant's files maintained in the agency's computer system.

**26.13(2)** Each party shall be afforded an opportunity for an opening statement and final arguments.

**26.13(3)** The hearing shall be confined to evidence relevant to the issue or issues stated on the notice of hearing.

**26.13(4)** If, during the course of a hearing, it appears to the presiding officer that an issue not set forth in the notice of hearing may affect the presiding officer's decision, the presiding officer shall so notify the parties and announce willingness to continue taking testimony on the underlying factual matters if the parties agree to waive on record further notice and make no objection to continuing. If any party objects, the presiding officer shall postpone or continue the hearing and cause new notices of hearing, containing all relevant issues, to be sent to the parties. Notwithstanding, voluntary quits and discharges generally shall be construed to constitute the single issue of separation from employment so that evidence of either or both types of separation may be received in a single hearing.

**26.13(5)** If factual issues generally relevant to a party's eligibility or liability for benefits but unrelated to the underlying facts in controversy in the present contested case are exposed, the presiding officer may remand the issue to the appropriate section of the department for investigation and preliminary determination.

**26.13(6)** If a party fails to appear for the hearing, the presiding officer may proceed with the hearing or decide the appealing party is in default and dismiss the appeal as provided in Iowa Code section 17A.12(3). If no decision has been issued, the absent party may make a written request to reopen the record for good cause as defined in subrule 26.7(3). The presiding officer may reopen the record for additional material, relevant and nonrepetitious evidence not submitted at the case hearing.

*a.* If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

*b.* If an absent party responds to the notice of hearing after the record has been closed and any party that has participated is no longer on the telephone line or present, the presiding officer shall not take the evidence of the late party and the party may file a written request to reopen the record.

*c.* Once a decision has been entered, the absent party may file an appeal to the employment appeal board to request a new hearing.

**26.13(7)** Whenever necessary, the presiding officer may require the attendance at a hearing of department employees having knowledge of the facts in controversy or having technical knowledge concerning the issues raised in appeal.

*a.* If the primary issue is the claimant's ability to work, availability for work or work search, the department may be named as respondent. The presiding officer may call department personnel having knowledge of the facts in controversy as witnesses.

*b.* If the issue on appeal is an offer of or recall to work or a job referral by a local workforce development center, both the employer making the offer or recall and the workforce development center representative making the referral may be witnesses at the hearing.

*c.* If the issue on appeal is the claimant's refusal of employment because of wages, the presiding officer may take the testimony of the workforce development representative having knowledge of prevailing wages in the vicinity. The presiding officer may also obtain testimony and evidence of the hours and other conditions of work for similar jobs in the area.

**26.13(8)** At the discretion of the presiding officer, witnesses may be excluded from the hearing room or telephone hearing until called to testify. The presiding officer shall admonish such witnesses not to discuss the case amongst themselves until after the record has been closed. All witnesses shall be subject to examination by the presiding officer and by all parties.

**26.13(9)** The presiding officer may expel or refuse admittance to any party, witness or other person whose conduct at the hearing is disorderly.

**26.13(10)** If the parties agree that no dispute of material facts exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant material evidence either by stipulation or otherwise as agreed by the parties, without the necessity of a formal evidentiary hearing.

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.14(17A,96) Evidence.** Rules of evidence are followed in accordance with Iowa Code section 17A.14.

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.15(17A,96) Recording costs.**

**26.15(1)** The presiding officer shall electronically record all evidentiary hearings, prehearing conferences and hearings on motions, all of which constitute a part of the record of the contested case. A party may, at its own expense, also record any hearing electronically or by certified shorthand reporter.

**26.15(2)** Upon request of a party, the department shall provide a copy of the whole or a part of the record at a cost, unless there is further appeal, in which event the record shall be provided to all parties at no cost.

[**ARC 8688C**, IAB 12/25/24, effective 1/29/25]

**871—26.16(17A,96) Decisions.**

**26.16(1)** The presiding officer shall issue a written, signed decision as soon as practicable after the closing of the record in a contested case. Each decision shall:

*a.* Set forth the issues, the appeal rights, a concise history of the case, the findings of essential facts, the reasons for the decision and the actual disposition of the case;

*b.* Be based on the kind and quality of evidence upon which reasonably prudent persons customarily rely for the conduct of their serious affairs, even if none of such evidence would be admissible in a jury trial in the Iowa district court; and

*c.* Be sent by first-class mail, email, or other electronic transmission to each of the parties in interest and their representatives.

**26.16(2)** Copies of all presiding officer decisions shall be kept on file for public inspection at the administrative office of the department of workforce development, filed according to hearing (appeal) number and indexed by the social security number of the claimant.

**26.16(3)** A presiding officer's decision allowing benefits shall result in the prompt payment of all benefits due. An appeal shall not stay the payment of benefits. A presiding officer's decision reversing an allowance of benefits shall include a statement of overpayment of benefits erroneously paid.

**26.16(4)** A presiding officer's decision constitutes final agency action in an employer liability contested case.

*a.* Any party in interest may file with the presiding officer a written application for rehearing within 20 days after the issuance of the decision. A request for rehearing is deemed denied unless the presiding officer grants the rehearing request within 20 days after its filing.

*b.* Any party in interest may file a petition for judicial review in the Iowa district court within 30 days after the issuance of the decision or within 30 days after the denial of the request for rehearing.

**26.16(5)** In a claimant benefit contested case, final agency action shall be a presiding officer's decision, if no aggrieved party appealed the decision to the employment appeal board within 15 days, or the decision of the employment appeal board, if the aggrieved party appealed the decision to that tribunal.

*a.* Once final agency action has been established, any party who is aggrieved or adversely affected by the agency action has 30 days to file a petition for judicial review with the district court.

*b.* Any party in interest may file with the presiding officer a written application for rehearing within 20 days after the date that the decision becomes final as a result of the failure to appeal the decision to the employment board. Applications for rehearing filed before this date will be forwarded to the employment appeal board as appeals to that tribunal. A request for rehearing is deemed denied unless the presiding officer grants the rehearing request within 20 days after its filing.

*c.* Any party in interest may file a petition for judicial review within 30 days after the denial of the request for rehearing.

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[1] At its meeting held August 3, 1999, the Administrative Rules Review Committee voted to impose a 70-day delay on amendments published in the July 28, 1999, Iowa Administrative Bulletin as **ARC 9215A**.

CHAPTERS 27 to 40
Reserved

Title III
EMPLOYMENT AND TRAINING SERVICES

CHAPTER 41
REQUEST FOR WAIVER OF ADMINISTRATIVE RULE
Transferred to 871—Chapter 2, IAC Supplement 5/14/25

CHAPTER 42
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
[Prior to 3/12/97 see Employment Services[341] Ch 2]
Transferred to 871—Chapter 3, IAC Supplement 5/14/25

CHAPTER 43
PETITIONS FOR RULEMAKING
[Prior to 3/12/97 see Employment Services[341] Ch 3]
Transferred to 871—Chapter 4, IAC Supplement 5/14/25

CHAPTER 44
DECLARATORY ORDERS
[Prior to 3/12/97 see Employment Services[341] Ch 4]
Transferred to 871—Chapter 5, IAC Supplement 5/14/25

CHAPTERS 45 to 49
Reserved

CHAPTER 50
MISSION AND STRUCTURE
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 2]
Rescinded **ARC 9626C**, IAB 10/15/25, effective 11/19/25

CHAPTER 51
COORDINATING SERVICE PROVIDER
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 4]
Rescinded **ARC 9627C**, IAB 10/15/25, effective 11/19/25

CHAPTER 52
REGIONAL ADVISORY BOARDS
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 6]
Rescinded **ARC 9628C**, IAB 10/15/25, effective 11/19/25

# CHAPTER 53
# IOWA WORKFORCE INVESTMENT ACT PROGRAM

[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 7]

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

**871—53.1(84A,PL105-220) Designation of responsibility.** Through Executive Order Number One and Executive Order Number Five, the department of workforce development was designated by the governor as the department responsible for activities and services under the Workforce Investment Act (WIA) of 1998 (P. L. 105-220).

[Editorial change: IAC Supplement 5/14/25]

**871—53.2(84A,PL105-220) Purpose.** The purpose of the Iowa workforce investment Act program is to meet the needs of businesses for skilled workers and the training, education and employment needs of individuals through a statewide, one-stop workforce development center system.

[Editorial change: IAC Supplement 5/14/25]

**871—53.3(84A,PL105-220) Definitions.**

*"Chief elected official board"* means the units of local government joined through an agreement for the purpose of sharing liability and responsibility for programs funded by the Workforce Investment Act of 1998.

*"Contractor"* means grantees, subrecipients, coordinating service providers, and service providers.

*"Coordinating service provider"* means the entity or consortium of entities selected by the regional workforce investment board and the chief elected official board to coordinate partners within the workforce development center system. The coordinating service provider is one of the workforce development center system partners.

*"Department"* means the department of workforce development.

*"Director"* means the director of the department of workforce development.

*"Local elected official"* means the county supervisors and mayors of a region's cities with a population of more than 50,000.

*"Local grant recipient"* means the chief elected official board.

*"Mandatory partners"* means the service providers that make their services available through the workforce development center system and use a portion of their resources to support the operation of the regional workforce development center system and the delivery of core services to their customers. Entities that carry out the following federal programs are required to make their services available through the workforce development center system: Wagner-Peyser Act; Unemployment Insurance; Senior Community Service Employment Activities - Title V Older Americans Act; Adult Education and Literacy Activities - Title II; Title I of the Rehabilitation Act of 1973; Welfare to Work; Veterans Services under Chapter 41, Title 38; Employment and Training Activities under Community Block Grants; HUD Employment and Training Activities; and Post-Secondary Vocational Education Activities under the Carl Perkins Act. In addition, those entities selected to provide Workforce Investment Act funded services for adults, dislocated workers and youth are mandatory partners, as are service providers for Native American programs, migrant and farm worker programs, veterans workforce programs, and Job Corps.

*"Regional workforce investment board (RWIB)"* means a board established according to 871—Chapter 52.

*"Subrecipient"* means an entity selected by the chief elected official board to receive the Workforce Investment Act funds in a region from the department and disburse those funds to the entity(ies) designated by the regional workforce investment board.

*"Workforce development center system"* means the regional network of workforce development centers and access points for workforce development services supported by the chief elected official board, regional workforce investment board, partners, service providers, and vendors. The system is focused on meeting the needs and priorities of the customer through an integrated service delivery system based on interagency partnerships and the sharing of resources.

*"Workforce Investment Act of 1998," "WIA" or "the Act"* means Public Law 105-220.
[Editorial change: IAC Supplement 5/14/25]

**871—53.4(84A,PL105-220) Service delivery region designations.** The governor is responsible for the designation of workforce investment regions with the assistance of the state workforce development board, after consultation with the chief elected officials and after consideration of comments received through a public comment process.

**53.4(1)** In making the designation of regions, the governor shall take into consideration the following:

*a.* Geographic areas served by local educational agencies and intermediate educational agencies;

*b.* Geographic areas served by postsecondary educational institutions and vocational education schools;

*c.* The extent to which the regions are consistent with labor market areas;

*d.* The distance that individuals will need to travel to receive services provided in the regions; and

*e.* The resources of the areas that are available to effectively administer the activities carried out through the workforce development centers.

**53.4(2)** In order to initiate the designation process, the governor shall publicly announce the proposed region designations after receiving a recommendation from the state workforce development board. This will begin a public comment period of two weeks, during which local elected officials and other interested parties may comment on the proposed designations. Due to state legislative limitations, the maximum number of regions that may be designated is 16.

**53.4(3)** Any request from any unit of local government with a population of 500,000 or more shall be approved by the governor. In addition, the governor shall approve any requests from any unit of general local government, or consortium of contiguous units of general local government, that was a service delivery area under the federal Job Training Partnership Act, provided that it is determined that the area performed successfully in each of the last two program years and has sustained the fiscal integrity of funds. For the purposes of this subrule, "performed successfully" means that the service delivery area met or exceeded the performance for the following performance standards as appropriate:

*a.* Title IIA: adult follow-up employment rate; adult welfare follow-up employment rate; adult follow-up weekly earnings; and adult welfare follow-up weekly earnings.

*b.* Title III: entered employment rate; and average wage at placement.

Also for the purposes of this subrule, "sustained fiscal integrity" means that the Secretary of the Department of Labor has not made a final determination during any of the last three years that either the grant recipient or administrative entity misspent funds due to willful disregard of the requirements of the Job Training Partnership Act, gross negligence, or failure to observe accepted standards of administration.

**53.4(4)** The final designation of the regions shall be made by the governor once all comments have been received and reviewed.

**53.4(5)** Any unit of general local government, or consortium of contiguous units of general government, that requests, but is not designated, a region under 53.4(3) may submit an appeal in accordance with the provisions of 53.24(12).
[Editorial change: IAC Supplement 5/14/25]

**871—53.5(84A,PL105-220) Chief elected official board.** Each region is required to form a chief elected official board made up of representatives of the elected officials of local governments within the region.

**53.5(1)** The board shall consist of a representative of each county within a region and a representative of each of the region's cities with a population of 50,000 or more. Although required to participate, the supervisors or mayors may choose to "opt out" by resolution of their full boards of supervisors or city councils. By exercising this option, the county or city will no longer share in the liability for the WIA funds or have a voice in the design and oversight of the system.

**53.5(2)** The board shall be formed through an agreement that details how the responsibilities and liabilities related to WIA programs will be shared by the local governments. At a minimum, the agreement must contain the following items:

*a.* All elements of an agreement required by Iowa Code chapter 28E for joint exercise of governmental powers;

*b.* Process for selecting the chairperson;

*c.* Process for nominating and selecting appointments to the regional workforce investment board;

*d.* Apportionment of responsibility and liability among participating units of government, including losses, expenses and burdens that may result from any misuse of WIA grant funds; and

*e.* Designation of an entity to serve as the local subrecipient.

**53.5(3)** The fully executed agreement, or any amendments to the agreement, must be filed with the secretary of state and the county recorder of each county that is a party to the agreement. A copy of the agreement and any amendments must also be sent to Division of Workforce Services, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

**53.5(4)** The chief elected official board shall serve as the local grant recipient and be liable for any misuse of WIA grant funds, unless an agreement is reached with the department to act as the local grant recipient and to bear such liability. The department shall serve as a region's local grant recipient only in rare or extreme circumstances.

**53.5(5)** The chief elected official boards have the following roles and responsibilities:

*a.* Providing input to the governor, through the department and state workforce development board, on designation of workforce investment regions;

*b.* Securing nominations for regional workforce investment board vacancies in accordance with 871—Chapter 52; and

*c.* Accepting liability for any misuse of WIA funds expended under contract with the chief elected official board.

**53.5(6)** In partnership with the regional workforce investment board, the chief elected official board is responsible for:

*a.* Negotiating and reaching agreement with the department on regional performance standards;

*b.* Appointing a youth advisory council;

*c.* Determining the role of the coordinating service provider;

*d.* Designating and certifying the coordinating service provider;

*e.* Developing a chief elected official/regional workforce investment board agreement to detail how the two boards shall work together in establishing and overseeing the region's workforce development center system, as defined in 871—53.7(84A,PL105-220);

*f.* Developing and entering into a memorandum of understanding with the region's workforce development center system's partners;

*g.* Conducting oversight of the WIA adult and dislocated worker services, youth programs, and the workforce development center system;

*h.* Evaluating service delivery to determine if regional needs and priorities are being met;

*i.* Determining whether regional needs have changed and, if so, whether a plan modification is necessary;

*j.* Ensuring quality improvement is ongoing and performance standards are met; and

*k.* Developing and submitting the regional workforce development customer service plan based on a regional needs assessment and analysis.

[Editorial change: IAC Supplement 5/14/25]

**871—53.6(84A,PL105-220) Regional workforce investment board.** Each region shall establish a regional workforce investment board as defined in 871—Chapter 52. The roles and responsibilities of the regional workforce investment board include:

1. Selecting service providers for WIA adult and dislocated worker intensive services and youth programs.
2. Establishing policy for the region's workforce development center system.
3. Developing a budget to carry out the duties of the board, subject to the approval of the chief elected official board.
4. Coordinating WIA youth, adult and dislocated worker employment and training activities with economic development strategies and developing other employer linkages with these activities.
5. Promoting the participation of private sector employers in the workforce development system and ensuring the availability of services to assist such employers in meeting workforce development needs.

6. Certifying eligible training providers.

7. Determining the use of the strategic workforce development fund, including the operation and funding of a summer or in-school youth program(s), use of discretionary funds, and selection of service providers.

8. Selecting the welfare-to-work service provider.

9. Submitting an annual report to the state workforce development board.

10. Establishing cooperative relationships with other boards in the region.

11. Directing the activities of the youth advisory council.

12. Sharing the duties with the chief elected official board as outlined in 53.5(6).

[Editorial change: IAC Supplement 5/14/25]

**871—53.7(84A,PL105-220) Regional workforce investment board/chief elected official board agreement.** Each regional workforce investment board and chief elected official board shall enter into an agreement to define how they shall share certain responsibilities.

**53.7(1)** At a minimum, the agreement must include the following elements:

*a.* How the coordinating service provider will be selected;

*b.* How the boards will be involved in negotiations of performance measures with the department;

*c.* How the boards will develop a memorandum of understanding with the region's workforce development center system's partners;

*d.* How the boards will develop and approve the regional workforce development customer service plan;

*e.* How the boards will share the oversight of the workforce development center system;

*f.* Process that will be used by the boards to appoint members to the youth advisory council;

*g.* Process for modifying or amending the agreement;

*h.* Process to be used to develop an operating budget for the regional workforce investment board and youth advisory council; and

*i.* Methods of communications between the two boards.

**53.7(2)** A fully executed copy, and any subsequent modifications, of the agreement shall be submitted to Division of Workforce Services, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

[Editorial change: IAC Supplement 5/14/25]

**871—53.8(84A,PL105-220) Youth advisory council.** Each region must appoint a youth advisory council to provide expertise and make recommendations regarding youth employment and training policy.

**53.8(1)** The roles and responsibilities of the youth advisory council, at the direction of the regional workforce investment board, include the following:

*a.* Assist in the development of the regional customer service plan relating to eligible youth;

*b.* Recommend and oversee youth service providers; and

*c.* Coordinate youth activities funded under WIA.

**53.8(2)** Youth advisory council membership shall include:

*a.* Members of the regional workforce investment board that have a special interest or expertise in youth policy;

*b.* Individuals who represent youth service agencies, such as juvenile justice and local law enforcement agencies;

*c.* Individuals who represent local public housing authorities, if applicable;

*d.* Parents of youth eligible for WIA youth services or who were served under a Job Training Partnership Act youth program;

*e.* Individuals with experience relating to youth activities;

*f.* Former Job Training Partnership Act participants;

*g.* Representatives of the Job Corps, if Job Corps has an office within the region; and

*h.* Any other individuals that the chairperson of the regional workforce investment board, in cooperation with the chief elected official board, determines to be appropriate.

**53.8(3)** The size of the youth council, the number of representatives from each sector, term length, nomination process, and county/city representation are decisions of the regional workforce investment board and chief elected official board.

**53.8(4)** The regional workforce investment board shall submit the name, mailing address, and sector affiliation of each youth advisory council appointee to the department for mailing list purposes. The list, and subsequent updates due to new appointments, shall be submitted to Division of Workforce Services, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.
[Editorial change: IAC Supplement 5/14/25]

**871—53.9(84A,PL105-220) Selection of coordinating service provider.** To receive funds made available under Title I of WIA, the regional workforce investment board, in agreement with the chief elected official board, must designate an entity as the coordinating service provider for the workforce investment region.

**53.9(1)** The regional workforce investment board and chief elected official board must determine the role of the coordinating service provider. At a minimum, the coordinating service provider's roles and responsibilities shall include the following:

*a.* Provide overall customer management and tracking, including responsibility for results of enrollments.

*b.* Manage the workforce development center system in the region, including workforce development center facilities, and ensure that services are accessible and available in every county of the region.

*c.* Ensure workforce development center system partners' compliance with the memorandum(s) of understanding.

*d.* Coordinate and negotiate the resource sharing agreement.

*e.* Ensure that performance standards and customer satisfaction goals for the region's workforce development center system are met.

*f.* Provide information and feedback to the regional workforce investment board and chief elected official board concerning the delivery of the services outlined in the customer service plan versus the needs and priorities identified in the regional needs assessment and analysis.

*g.* Maintain, promote and market the regional workforce development center system.

*h.* Develop and submit an annual progress report toward meeting the needs and priorities identified in the regional needs assessment and analysis to the regional workforce investment board.

*i.* May, as described in the memorandum(s) of understanding, determine eligibility for training services.

**53.9(2)** The regional workforce investment board and chief elected official board need to determine if they want to grandfather the current coordinating service provider, based on the role that has been determined. The boards also need to determine if the current coordinating service provider desires to be grandfathered.

**53.9(3)** If the regional workforce investment board or chief elected official board does not desire to grandfather the existing coordinating service provider, or if the coordinating service provider members do not desire to be grandfathered, then the service provider(s) needs to be selected prior to the designation of the coordinating service provider.

**53.9(4)** The coordinating service provider may be a public or private entity, or a consortium of entities, of demonstrated effectiveness located in the region. Eligible entities may include, but are not limited to, the following:

*a.* A postsecondary educational institution;

*b.* An employment service agency established under the Wagner-Peyser Act;

*c.* A private nonprofit organization (including a community-based organization);

*d.* A private, for-profit entity;

*e.* A government agency; or

*f.* Another interested organization (includes a local chamber of commerce, labor organization or other business organization).

Elementary schools and secondary schools are the only entities not eligible for designation or certification as a coordinating service provider. However, nontraditional public secondary schools and area vocational schools are eligible for designation.

**53.9(5)** To designate a coordinating service provider, the regional workforce investment board must utilize one of the three processes listed below. More than one option may be pursued concurrently.

*a.* An agreement with the governor to designate the coordinating service provider that was in place on August 7, 1998. In order to utilize this option, the chairpersons of the regional workforce investment board and chief elected official board must provide a written notice to the department indicating that both boards have taken appropriate action and desire to pursue this option.

*b.* A competitive process. At a minimum, the competitive process to designate the coordinating service provider shall include the following:

(1) Public notice. A public notice shall be published in one of the official county newspapers, as designated by the county board of supervisors. The public notice must indicate that both boards shall hold a joint meeting to select the coordinating service provider(s) for the region. The notice must list the criteria that will be used in the selection of the coordinating service provider(s). The notice must also require that written proposals be submitted by a specific date and invite interested entities to give presentations and answer questions relating to the selection criteria in 53.9(6) at the joint public meeting. Notices must also be mailed to potentially interested entities within the region.

(2) Public meeting. Since both boards must agree on the designation of the coordinating service provider, at a minimum, the boards shall jointly conduct a public meeting to review the written proposals received, obtain any additional information from entities submitting written proposals, and reach an agreement as to the selection(s).

*c.* An agreement between the regional workforce investment board and a consortium of entities that, at a minimum, includes three or more of the mandatory partners. In order to utilize this option, at a minimum, the regional workforce investment board and chief elected official board shall notify all partners that they are willing to consider proposals from mandatory partners and hold an open meeting to obtain input and finalize the action.

**53.9(6)** The following criteria are suggested for use in the selection of a coordinating service provider:

*a.* The effectiveness of the agency or organization in delivering comparable or related services based on documentation of achievement of performance and service level requirements, previous audit and monitoring reports, and capability of the agency's fiscal unit to manage a similar type of program or project;

*b.* The likelihood of meeting program goals based upon factors such as past performance, staff commitment, and availability and location of staff;

*c.* The effectiveness of the agency or organization in minimizing the duplication of services, while at the same time maximizing the coordination with other agencies and organizations to provide the highest quality activities and services to the participants in the programs; and

*d.* Other criteria as determined by both boards.

[Editorial change: IAC Supplement 5/14/25]

**871—53.10(84A,PL105-220) Selection of service providers.** Core and intensive services for the adult program and the dislocated worker program shall be provided through the workforce development center. These services may be provided by one entity or a number of different entities. If the role of the coordinating service provider includes the provision of core and intensive services for adults and dislocated workers, then the selection of adult and youth service providers may be combined with the selection of the coordinating service provider. The regional workforce investment board and chief elected official board must determine the most effective and efficient manner to provide these services in the region. The regional workforce investment board and chief elected official board must also determine which service providers will be responsible for ensuring that performance standards are met and that the service provider(s) responsible for performance have the authority to make enrollment decisions for their participants.

**53.10(1)** In selecting service providers, the regional workforce investment board may use the following procedure or may develop a more formal procurement procedure. At a minimum, the procedure to designate service providers must include the following:

*a.* Public notice. A public notice shall be published in the official county newspaper, as designated by the county board of supervisors. The public notice must indicate that the regional workforce investment

board shall hold a meeting to select the service provider(s) to provide core and intensive services for the adult and dislocated worker programs under Title I. The notice shall list the criteria for the selection of the service provider(s) and invite interested entities to give presentations and answer questions relating to the selection criteria. Notices shall also be mailed to potentially interested entities within the local region.

*b.* Public meeting. The regional workforce investment board shall conduct a public meeting to obtain information from entities interested in providing core and intensive services in the local region and to reach an agreement as to the selection of the service provider(s).

*c.* Criteria for selecting service providers. The following are examples of criteria that could be considered and addressed in the selection of a service provider:

(1) The effectiveness of the agency or organization in delivering comparable or related services based on documentation of achievement of performance and service level requirements, previous audit and monitoring reports, previous partnerships negotiated for services for customers, and capability of the agency's fiscal unit to manage a similar type of program or project;

(2) The likelihood of meeting performance goals based upon factors such as past performance, effective use of previous grant funds, staff commitment, and availability of staff;

(3) The effectiveness of the agency or organization in minimizing the duplication of services, while at the same time maximizing the coordination with other agencies and organizations to provide the highest quality activities and services to the participants in the program; and

(4) Other criteria as determined by the regional workforce investment board.

**53.10(2)** Youth service providers shall be selected via a competitive process and based on recommendations of the youth advisory council. Since the delivery of the youth services could be accomplished through a number of different service providers, the regional workforce investment board should initially designate a youth service provider to coordinate the operation of the youth program and to provide eligibility, enrollment, objective assessment and individual service strategy services for youth. Additional youth service providers could be designated at a later date. At a minimum, the procedure to designate the youth service provider(s) must include the following:

*a.* Public notice. A public notice shall be published in one of the official county newspapers, as designated by the county board of supervisors. The public notice must indicate that the regional workforce investment board shall hold a public meeting to select a youth service provider to coordinate the operation of the youth program, and to provide eligibility, enrollment, objective assessment and individual service strategy services for youth. The notice must list the criteria to be used in the selection of the youth service provider(s) and must require that written proposals be submitted by a specific date. The notice must also invite interested entities that have submitted written proposals to give presentations and answer questions relating to the selection criteria at the public meeting. Notices must also be mailed to potentially interested entities within the local region.

*b.* Public meeting. The regional workforce investment board must conduct a public meeting to review the written proposals received, obtain any additional information from entities submitting written proposals, and reach an agreement as to the selection(s).

*c.* Criteria for selecting youth service providers. The following are examples of criteria that could be considered and addressed in the selection of a service provider:

(1) The effectiveness of the agency or organization in delivering comparable or related services based on documentation of achievement of performance and service level requirements, previous audit and monitoring reports and capability of the agency's fiscal unit to manage a similar type of program or project;

(2) The likelihood of meeting performance goals based upon factors such as past performance, staff commitment, and availability of staff;

(3) The effectiveness of the agency or organization in minimizing the duplication of services, while at the same time maximizing the coordination with other agencies and organizations to provide the highest quality activities and services to the participants in the program; and

(4) Other criteria as determined by the regional workforce investment board.

**53.10(3)** Entities with taxing authority may not use tax paid services as in-kind matching funds.

[Editorial change: IAC Supplement 5/14/25]

**871—53.11(84A,PL105-220) Memorandum of understanding.** The memorandum of understanding is an agreement developed and executed between the regional workforce investment board, with the agreement of the chief elected official board, and the workforce development center system partners relating to the operation of the workforce development center system in the region. There may be a single memorandum of understanding developed that addresses the issues relating to the regional workforce development center system, or the regional workforce investment board and partners may decide to enter into several agreements. Regardless of whether there is a single agreement or multiple agreements, each partner should be aware of the contents of all of the agreements executed.

**53.11(1)** The regional workforce investment board and the chief elected official board should initiate the negotiation process for the development of the agreement. Prior to the start of negotiations, the following tasks shall be completed:

*a.* Identify all of the local partners and the services they provide.

*b.* Name the coordinating service provider.

*c.* Determine the role of the coordinating service provider.

*d.* Complete the regional needs assessment and analysis.

*e.* Execute a single memorandum of understanding or multiple memorandums of understanding.

**53.11(2)** At a minimum, the memorandum of understanding shall include:

*a.* The services to be provided through the workforce development center system.

*b.* The location of the comprehensive workforce development center(s), as well as other locations where each partner's services will be provided. All partners must make their core services available, at a minimum, at one comprehensive physical center in the region. All adult and dislocated worker core services shall also be available at the comprehensive center. In addition, core services may be provided at additional sites, and partners' applicable core services need not be provided exclusively at the comprehensive workforce development center. The core services may be made available by the provision of appropriate technology at the comprehensive workforce development center by co-locating personnel at the center, by cross-training of staff, or through a cost reimbursement agreement.

*c.* The programs and services that will be available at the different locations must be specified, as well as the manner in which the services will be made available.

*d.* The particular arrangements for funding the services provided through the workforce development center system and the operating costs of the system. Each partner must contribute a fair share of the operating costs based on the use of the workforce development center delivery system by the individuals attributable to the partner's program. While the resources that a partner contributes do not have to be cash, the resources must be of value and must be necessary for the effective and efficient operation of the center system. The specific method of determining each partner's proportionate responsibility must be described in the agreement. This could include a list of resources that each partner is providing toward the operation of the system. Since most partners' budgets fluctuate on an annual basis, partner contributions for the operating costs of the system should be reevaluated annually.

*e.* The partners who will be using the common intake/case management system as the primary referral mechanism, and how referrals will occur between and among the partners not utilizing the common intake/case management system.

*f.* When the agreement will become effective as well as when the memorandum will terminate or expire. The effective date must be no later than July 1, 2000.

*g.* The process or procedure for amending the agreement. The procedure should include such items as:

(1) Identification of who can initiate an amendment;

(2) Time lines for completing an amendment;

(3) Conditions under which an amendment will become necessary; and

(4) Method of communicating changes to all of the partners.

**53.11(3)** It is a legal obligation for the regional workforce investment board, chief elected official board and partners to engage in good-faith negotiation and reach agreement on the memorandum of understanding. Any or all parties may seek the assistance of the department or other appropriate state agencies in negotiating the agreements. After exhausting all alternatives, the department or the other

state agencies may consult with the appropriate federal agencies to address impasse situations. If the regional workforce investment board and chief elected official board have not executed a memorandum of understanding with all of the mandatory partners and service providers, the region shall not be eligible for state incentive grants awarded for local cooperation.
[Editorial change: IAC Supplement 5/14/25]

**871—53.12(84A,PL105-220) Performance measures.** The programs authorized in Title I are evaluated by measures established by the Act on a state and regional basis. In order for the state to qualify for incentive funds, it must meet performance standards set for these measures, in conjunction with successful performance by programs funded under the Carl Perkins Act and the Workforce Investment Act Title II.

**53.12(1)** Standards for measurement for each region shall be established through negotiations between the department, the chief elected official board and each regional workforce investment board.

**53.12(2)** Performance outcome measures. The overall mission of Iowa's workforce development center system is to increase the size of the skilled labor force and increase earned income among Iowa citizens. Each region's workforce development center system shall address its locally developed priorities in conjunction with the above goals. In addition to having the performance of the regional workforce development center system evaluated as a whole, all Title I programs shall be evaluated based on the following outcome measures:

*a.* Adult program outcome measures.

(1) Entry into unsubsidized employment;

(2) Retention in unsubsidized employment for six months after entry into employment;

(3) Earnings received in unsubsidized employment for six months after entry into employment; and

(4) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter unsubsidized employment.

*b.* Dislocated worker program outcome measures.

(1) Entry into unsubsidized employment;

(2) Retention in unsubsidized employment for six months after entry into employment;

(3) Earnings received in unsubsidized employment for six months after entry into employment; and

(4) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter unsubsidized employment.

*c.* Youth aged 19 to 21 outcome measures.

(1) Entry into unsubsidized employment;

(2) Retention in unsubsidized employment for six months after entry into employment;

(3) Earnings received in unsubsidized employment for six months after entry into employment; and

(4) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter postsecondary education, advanced training, or unsubsidized employment.

*d.* Youth aged 14 to18 outcome measures.

(1) Attainment of basic skills and, as appropriate, work readiness or occupational skills;

(2) Attainment of secondary school diplomas or their recognized equivalents; and

(3) Placement and retention in postsecondary education, advanced training, military service, employment, or qualified apprenticeships.

*e.* Customer satisfaction of participants.

*f.* Customer satisfaction of employers.

**53.12(3)** Other measures. The following measures shall also be tracked and progress reported.

*a.* Entry by participants who have completed training services into unsubsidized employment related to the training received;

*b.* Wages at entry into employment (including rate of wage replacement for groups of participants, such as dislocated workers);

*c.* Cost of workforce investment activities relative to the effect of the activities on the performance of participants;

*d.* Retention and earnings received in unsubsidized employment 12 months after entry into the employment; and

*e.* Performance of recipients of public assistance, out-of-school youth, veterans, individuals with disabilities, displaced homemakers, and older individuals, as required by the Department of Labor.

**53.12(4)** Retention in employment measures and wages earned measures will be calculated using data from the unemployment insurance wage record database with the assistance of the department.

**53.12(5)** Regional performance standards shall be negotiated between the department, the regional workforce investment board and chief elected official board. Performance standards shall be negotiated for each region annually. The department, the regional workforce investment board and chief elected official board shall evaluate regional performance and the appropriateness of the negotiated standards each year. Formal negotiation shall be conducted for two-year periods and remain consistent with years in which needs assessment activities are conducted.

The department shall establish a minimum acceptable level of performance for each measure, based upon levels established through negotiation between the state and the Department of Labor and using historical data. Negotiation will focus on the adjusted level of performance, which will serve as the regional objective. Performance of a program within a region below the minimum acceptable levels shall be the basis for corrective action or sanctions. Performance above adjusted levels shall be the basis for incentive awards. In addition, regions may negotiate maximum levels of performance (level at which adjusted levels shall not be negotiated beyond during the first five years).

**53.12(6)** Incentive awards. A portion of the state level funds shall be reserved from Title I programs to provide incentive awards to regions that demonstrate superior performance and to provide technical assistance to all regions. Incentive awards, which are granted during a program year, shall be distributed based upon performance from the previous program year. Actual distribution of the funds shall occur after the end of each program year when final performance standards are calculated. At that time, performance shall be compared against the region's adjusted levels to determine eligibility for, and the amount of, incentive awards.

Incentive awards shall be distributed to regional workforce investment boards when average performance across all measures exceeds the average adjusted levels for the percent achieved score for each measure. When the percent achieved score is greater than 100 percent, the region qualifies for a regional incentive award. There is no requirement for the number of individual measures that must be exceeded, but the customer and employer satisfaction measures must be exceeded for a region to qualify for an incentive award.

The regional workforce investment board must utilize the incentive funds to support Title I services, but it is possible for a region to purchase services that do not count toward performance measurement.

The determination of actual performance achievement on the 17 performance measures and any subsequent incentive awards shall be based on data contained in the integrated customer service (ICS) system. The initial determination of incentive awards shall be made no later than September 1 following the end of the program year. By that time, the chair of each regional workforce investment board shall be notified of its initial performance and incentive award determination. The regional workforce investment board, or its designee, shall be allowed two weeks in which to respond to these initial determinations. The response shall be limited to the calculation of the awards. Changes to the data shall not be permitted unless authorized by the department. A final determination and the awarding of incentive funds shall occur no later than October 1 following the end of the program year. The department reserves the authority to adjust the time lines for the awarding of incentive funds if circumstances warrant such an adjustment.

**53.12(7)** If a region does not meet performance outcome requirements, the department shall provide technical assistance to the region to improve its performance. The following process shall be used:

*a.* Technical assistance shall be available to the Title I service providers through the department's staff. In situations where regional performance falls below the minimum acceptable level, the department will assist the regional workforce investment board, or its designee, with the development of a performance improvement plan.

*b.* If regional Title I programs do not meet the minimum acceptable level of performance for two consecutive years, the regional workforce investment board shall be required to develop a performance

improvement plan. Technical assistance shall also be available to the regional workforce investment board and chief elected official board to adjust the regional customer service plan to facilitate the success of the region's performance improvement plan.

*c.* The performance improvement plan must be reviewed and approved by the chief elected official board prior to its submittal of the plan to the department.

**53.12(8)** If a region falls below the minimum acceptable levels of performance agreed upon for the region's average composite percent achieved score in any of the program areas for two consecutive years, the governor, through the department, shall take corrective action. The critical measures that determine possible sanctions are:

1. Adult program measures average;
2. Dislocated worker program measures average;
3. Youth program measures average; and
4. Customer satisfaction measures average.

At a minimum, the corrective action shall include the development of a performance improvement plan and the possibility of a reorganization plan, under which the governor:

*a.* Requires the appointment and certification of a new regional workforce investment board;

*b.* Prohibits the use of particular service providers that have been identified as achieving poor levels of performance;

*c.* Requires the certification of a new coordinating service provider;

*d.* Requires the development of a new regional plan; or

*e.* Requires other appropriate measures designed to improve the performance of the region.

An appeal to sanctions may be made by following the process identified in 53.24(15). If a region is being sanctioned, it shall not qualify for an incentive award in the Title I category.

[Editorial change: IAC Supplement 5/14/25]

**871—53.13(84A,PL105-220) Regional customer service plan.** Each regional workforce investment board, in partnership with the chief elected official board, shall develop and submit to the governor a five-year comprehensive plan that is in compliance with the state's workforce investment plan. A region must have an approved plan in place prior to receiving funds.

**53.13(1)** The plan shall contain the following elements:

*a.* Workforce development services available in the region.

*b.* An explanation of how customers access the services.

*c.* Statement of the region's workforce development priorities.

*d.* An identification of the workforce investment needs of businesses, job seekers, and workers in the region.

*e.* Current and projected employment opportunities, and the job skills necessary to obtain such opportunities.

*f.* A description of the regional workforce development center system, including the locations of access points, such as the region's one-stop center, satellite workforce development centers, resource centers, and other locations within the region where access to services shall be provided (including the access point in each county for department services that is required by state law); what products and services will be delivered at each of these locations and how access to those services will be provided at that location; identification of the products and services that may be provided upon a fee basis and an explanation of the amount and circumstances when the fee will be applied; and a description or flowchart of the service delivery system, identifying how customers will be served and referred within the center system, and when necessary, how program services, including the adult, dislocated worker and youth programs, will be provided to employers, and to other customers through the adult, dislocated workers, rapid response, and youth programs.

*g.* Description of the region's policies regarding issues such as activities and services, eligibility, selection, enrollment, and applicant and participant processes.

*h.* If a region will be sharing the costs of delivering services with another region within a labor market area, that arrangement and cost-sharing agreement shall be described.

*i.* Identification of the chief elected official board's and regional workforce investment board's oversight policies concerning the region's performance standards and continuous improvement activities.

*j.* Identification of how the regional workforce investment board and chief elected official board will evaluate the service delivery process and service providers' performance.

*k.* Description of the annual budget development, review and monitoring process for the region.

*l.* Description of how economic development groups, older workers, disabled individuals, and partners are provided an opportunity to provide periodic and meaningful input regarding the operation of the workforce development system.

*m.* Identification of the subrecipient or entity responsible for the disbursal of grant funds.

*n.* Attachments, including the regional needs assessment and analysis; region's negotiated performance measures; the region's memorandum of understanding; a copy of the region's complaint procedures; procurement procedures; and any documentation customers will be asked to provide for enrollment.

*o.* Public input process, including proof of publication for public notices soliciting public input for the plan.

*p.* Limitations on the dollar amount or duration of an individual training account (ITA), or both. There may be a limit for an individual participant that is based on the needs identified in the individual employment plan, as documented by an individual needs determination, or there may be a maximum amount applied to all ITAs. The amount of any ITA must be decreased by the amount of any Pell Grant awarded to a participant.

**53.13(2)** Prior to submitting the plan to the governor, the regional workforce investment board shall provide opportunities for public input regarding the plan. The public input process must include, at minimum:

*a.* Making copies of a proposed plan available to the public through such means as public hearings and public notices in local newspapers.

*b.* Allowing a 30-day period for regional workforce investment board members and members of the public, including representatives of business and labor organizations, to submit comments to the regional workforce investment board on the proposed plan after the plan is made available to the public. When the plan is submitted to the governor, any comments received expressing disagreement with the plan shall be included.

*c.* Holding open meetings to make information about the plan available to the public on an ongoing basis.

**53.13(3)** The plan must be formally approved by the regional workforce investment board and chief elected official board. An original signed document and four copies must be submitted by April 1, 2000, to the Division of Workforce Services, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

**53.13(4)** The department shall review the plan and recommend approval to the state workforce development board, unless deficiencies in the plan are identified in writing by the department and revision is required; or the plan is not in compliance with federal and state laws and regulations, including required consultations and public comment provisions.

**53.13(5)** Modifications to the plan may be required by the department under certain circumstances, including significant changes in regional economic conditions, changes in the financing available, changes in the regional workforce investment board structure, or a need to revise strategies to meet performance goals. A proposed modification of the plan must be approved by vote of the regional workforce investment board and chief elected official board at a public meeting.

[Editorial change: IAC Supplement 5/14/25]

**871—53.14(84A,PL105-220) Activities and services.**

**53.14(1)** *Core services.* Core services are designated as self-service and informational, which do not require registration or eligibility determination; and staff-assisted, which require registration and eligibility determination.

*a.* The following types of activities and services are considered self-service or informational core services:

(1) Determination of eligibility to receive services under WIA;

(2) Outreach, intake (which may include worker profiling) and orientation to the information and other services available through the system;

(3) Initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

(4) Job search and placement assistance and, where appropriate, career counseling;

(5) Provision of employment statistics information, related to local, regional, and national labor market areas, such as job vacancy listings in such labor market areas, information on job skills necessary to obtain the jobs listed, and information relating to local occupations in demand and the earnings and skill requirements for such occupations;

(6) Provision of performance and program cost information on eligible providers of training services;

(7) Provision of information regarding how the local area is performing on the local performance measures and any additional information with respect to the workforce development center system in the local region;

(8) Provision of accurate information relating to the availability of supportive services, including child care and transportation available in the local region, and referral to such services as appropriate;

(9) Provision of information regarding filing claims for unemployment compensation;

(10) Assistance in establishing eligibility for welfare-to-work and programs of financial aid for assistance for training and education programs that are not funded under the Act and are available in the region;

(11) Follow-up services, including counseling regarding the workplace, for WIA participants who are placed in unsubsidized employment, for not less than 12 months after the first day of employment, as appropriate.

*b.* The following types of activities and services are considered staff-assisted core services:

(1) Counseling;

(2) Individual job development;

(3) Job clubs; and

(4) Screened referrals.

**53.14(2)** *Intensive services.* A participant must receive intensive services before being determined to be in need of training services to obtain employment that leads to self-sufficiency. Intensive services include:

*a.* Comprehensive and specialized assessments of skill levels and service needs, including diagnostic testing and use of other assessment tools, and in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;

*b.* Development of an individual employment plan to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals;

*c.* Group counseling;

*d.* Individual counseling and career planning;

*e.* Case management for participants seeking training services;

*f.* Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training;

*g.* Out-of-area job search expenses;

*h.* Relocation expenses;

*i.* Internships; and

*j.* Work experience.

**53.14(3)** *Training services.* The following types of activities and services are considered to be training services:

*a.* Occupational skills training, including training for nontraditional employment;

*b.* Programs that combine workplace training with related instruction, which may include cooperative education programs;

*c.* Training programs operated by the private sector;

*d.* Skill upgrading and retraining;
*e.* Entrepreneurial training;
*f.* Job readiness training; and
*g.* Customized training.

**53.14(4)** *Supportive services* . Supportive services are those services necessary to enable an individual to participate in activities authorized under WIA. The following types of supportive services are allowable:

*a.* Clothing;
*b.* Counseling;
*c.* Dependent care;
*d.* Financial assistance;
*e.* Health care;
*f.* Housing assistance;
*g.* Miscellaneous services;
*h.* Needs-related payments;
*i.* Residential/meals support;
*j.* Services to individuals with disabilities;
*k.* Supported employment and training; and
*l.* Transportation.

**53.14(5)** *Youth services.* An array of services may be made available to youth. The list of youth services, which must be made available in each region, is as follows:

*a.* Tutoring, study skills training and instruction leading to secondary school completion, including dropout prevention strategies;
*b.* Alternative secondary school offerings;
*c.* Summer employment opportunities directly linked to academic and occupational learning;
*d.* Paid and unpaid work experiences, including internships and job shadowing;
*e.* Occupational skill training;
*f.* Leadership development opportunities;
*g.* Supportive services;
*h.* Adult mentoring, for a duration of at least 12 months, which may occur both during and after program participation;
*i.* Follow-up services; and
*j.* Comprehensive guidance and counseling, including drug and alcohol abuse counseling.

**53.14(6)** *Customized training* . The purpose of customized training is to provide training specific to an employer's needs, so individuals will be hired, or retained, by the employer after successful completion of the training. Customized training is normally provided in a classroom setting and is designed to meet the special requirements of an employer or group of employers. The employer(s) must commit to hire, or in the case of incumbent workers, continue to employ, an individual on successful completion of the training and must pay not less than 50 percent of the cost of the training. Participants enrolled in this activity must be covered by adequate medical and accident insurance.

**53.14(7)** *Entrepreneurial training.* The purpose of entrepreneurial training is to help participants acquire the skills and abilities necessary to successfully establish and operate their own self-employment businesses or enterprises.

*a.* The methods of providing training may include classes in small business development, marketing, accounting, financing, or any other courses that could contribute to a participant's goal of self-employment. On-site observation and instruction in business skills may also be provided, as well as individualized instruction and mentoring.

*b.* Entrepreneurial training may not be used for training in job-specific skills other than business management. However, it may be provided concurrently or consecutively with specific skill training for the purpose of establishing an enterprise that utilizes those skills.

*c.* Payments under entrepreneurial training are limited to training programs and activities that provide instruction in business operation and management. Funds may not be used for any direct costs associated with the establishment or operation of the business (e.g., materials, inventory, overhead, or advertising).

*d.* All participants who are enrolled in this training must apply for any financial assistance for which they may qualify, including Pell Grants. For purposes of this requirement, financial assistance does not include loans.

*e.* Participants must be covered by adequate medical and accident insurance.

**53.14(8)** *Follow-up services* . The purpose of these services is to identify any problems or needs that might preclude a former participant from remaining employed or continuing to progress toward unsubsidized employment. The provision of follow-up services and contacts or attempted contacts must be documented in the participant file.

*a.* Follow-up services must be provided for all adults and dislocated workers who enter employment for not less than 12 months after the first day of employment. The first follow-up contact must occur within the first 30 days of entering employment. The first contact must be a personal contact (in person or by telephone) with the participant. A second contact must occur approximately 90 days after the first day of employment. Contacts are required quarterly thereafter for the next three quarters. The types of follow-up services provided must be based on the needs of the adult or dislocated worker. Follow-up services may include:

(1) Counseling regarding the workplace;

(2) Assistance to obtain better employment;

(3) Determination of the need for additional assistance; and

(4) Referral to services of partner agencies or other community resources.

*b.* Follow-up services must be provided for all youth for not less than 12 months from the date of exit from the program. The first follow-up contact must occur within the first 30 days of entering employment. The first contact must be a personal contact (in person or by telephone) with the participant. A second contact must occur approximately 90 days after the first day of employment. Contacts are required quarterly thereafter for the next three quarters. Follow-up services may be provided beyond 12 months at the discretion of the RWIB. The types of services provided must be determined based on the needs of the youth. Follow-up services for youth may include:

(1) Leadership development and supportive services;

(2) Regular contact with the youth's employer, including assistance in addressing work-related problems that arise;

(3) Assistance in securing better paying jobs, career development, and further education;

(4) Work-related peer support groups;

(5) Adult mentoring; and

(6) Tracking the progress of youth in employment, postsecondary training, or advanced training.

**53.14(9)** *Guidance and counseling* . Guidance and counseling is the provision of advice to participants through a mutual exchange of ideas and opinions, discussion and deliberation. Guidance and counseling should be academic or employment-related, and may include drug and alcohol abuse counseling and referral. Guidance for youth must be categorized as either academic (primarily provided to assist a youth in achieving academic success), or employment-related (primarily provided to assist a youth in achieving employment-related success).

**53.14(10)** *Institutional skill training* . The purpose of this service is to provide individuals with the technical skills and information required to perform a specific job or group of jobs. Institutional skill training is conducted in a classroom setting.

*a.* All participants who are enrolled in this service must apply for any financial assistance for which they may qualify, including Pell Grants. All participants must be covered by the training institution's tuition refund policy. In the absence of a refund policy established by the training institution, the WIA service provider must negotiate a reasonable refund policy with the training site.

*b.* Participants must be covered by adequate medical and accident insurance.

*c.* A participant who is employed must not be earning a self-sufficiency wage to be enrolled in this service.

**53.14(11)** *Job club.* The purpose of this activity is to provide a structured job search activity for a group of participants who develop common objectives during their time of learning and working

together, supporting one another in the job search process. The scheduled activities and required hours of participation should reflect proven job search techniques and the employment environment of the region.

*a.* Participants in job club shall meet the following objectives:

(1) Have been prepared to understand and function in the interview process and the workplace;

(2) Have completed all tools needed for effective work search, including a résumé and an application letter; and

(3) Have the opportunity to complete as many actual job contacts and interviews as possible after completing all of the job search tools.

*b.* Participants must be covered by adequate medical and accident insurance.

**53.14(12)** *Leadership development.* The purpose of leadership development is to enhance the personal life, social, and leadership skills of participants, and to remove barriers to educational and employment-related success. Leadership development opportunities may include the following:

*a.* Exposure to postsecondary educational opportunities;

*b.* Community and service learning projects;

*c.* Peer-centered activities, including peer mentoring and tutoring;

*d.* Organizational and team training, including team leadership training;

*e.* Training in decision making, including determining priorities;

*f.* Citizenship training, including life skills training such as parenting, work behavior training, and budgeting of resources;

*g.* Employability training; and

*h.* Positive social behavior or "soft skills," including but not limited to, positive attitudinal development, self-esteem building, cultural diversity training, and work simulation activities.

Leadership development activities are normally conducted in a group setting and must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule. Participants must be covered by adequate on-site medical and accident insurance.

**53.14(13)** *Limited internship.* The purpose of a limited internship is to provide a participant with exposure to work and the requirements for successful job retention that are needed to enhance the long-term employability of that participant.

*a.* Limited internships are limited in duration, devoted to skill development, and enhanced by significant employer investment.

*b.* Internships may be conducted at public, private, for-profit and nonprofit work sites. The use of an intern should involve a substantial investment of effort by employers accepting the intern, and an intern must not be employed in a manner that subsidizes or appears to subsidize private sector employers.

*c.* The total participation in a limited internship for any participant must not exceed 500 hours per enrollment. In addition, for in-school youth, participation must be limited to 20 hours per week during the school year. In-school youth may participate full-time during summer vacation and holidays.

*d.* Limited internship agreements must be written only for positions for which a participant would not normally be hired because of lack of experience or other barriers to employment.

*e.* Participants may be compensated for time spent in the activity. This compensation may be in the form of incentive and bonus payments or wages. If the participant receives wages, the WIA service provider is the employer of record. The wages paid to the participant must be at the same rates as similarly situated employees or trainees of the employer of record, but in no event less than the higher of the federal or state minimum wage. Participants receiving wages must always be paid for time worked, must not be paid for any scheduled hours they failed to attend without good cause, and must, at a minimum, be covered by workers' compensation in accordance with state law. In addition, all participants who are paid wages must be provided benefits and working conditions at the same level and to the same extent as other employees of the employer of record working a similar length of time and doing the same type of work.

*f.* Participants receiving incentive or bonus payments based on attendance must not receive any payment for scheduled hours that they failed to attend without good cause.

*g.* Participants who are not receiving wages must be covered by adequate on-site medical and accident insurance.

*h.* Limited internships may be used in conjunction with on-the-job training with the same employer. However, when this occurs, the internship must precede on-the-job training, and the on-the-job training time for the participant must be reduced.

*i.* If the private sector work site employer hires the participant during internship, the internship for that participant must be terminated.

**53.14(14)** *Mentoring.* The purpose of mentoring is to provide a participant with the opportunity to develop a positive relationship with an adult. The adult mentor should provide a positive role model for educational, work skills, or personal or social development. Mentoring for youth must be categorized as either academic (primarily provided to assist a youth in achieving academic success) or employment-related (primarily provided to assist a youth in achieving employment-related success).

**53.14(15)** *On-the-job training.* The purpose of on-the-job training (OJT) is to train a participant in an actual work situation that has career advancement potential in order to develop specific occupational skills or obtain specialized skills required by an individual employer.

*a.* Since OJT is employment, state and federal regulations governing employment situations apply to OJT. Participants in OJT must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer. Wages paid must not be less than the highest of federal or state minimum wage or the prevailing rates of pay for individuals employed in similar occupations by the same employer.

*b.* Participants in OJT must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of job. Each participant in OJT must be covered by workers' compensation in accordance with state law.

*c.* Payment to employers is compensation for the extraordinary costs of training participants, including costs of classroom training, and compensation for costs associated with the lower productivity of such participants. A trainer must be available at the work site to provide training under an OJT contract. For example, a truck driving position in which the driver drives alone or without immediate supervision or training would not be appropriate for OJT. The payment must not exceed 50 percent of the wages paid by the employer to the participant during the period of the training agreement. Wages are considered to be moneys paid by the employer to the participant. Wages do not include tips, commissions, piece-rate-based earnings or nonwage employee fringe benefits. Payment for overtime hours and holidays is only allowable in accordance with local policies. Holidays may be used as the basis for OJT payments only if the participant actually works and receives training on the holiday.

*d.* An OJT contract with an employer may be written for a maximum of 6 calendar months unless the contract is for a part-time OJT of less than 500 hours, in which instance the contract period may be extended to a maximum of 12 months. Under no circumstances may an OJT contract be written for a participant if the hours of training required for the position in which the participant is to be trained are determined to be less than 160 hours. The number of OJT training hours for a participant must be determined using a standardized chart, unless the regional customer service plan contains an alternative methodology for determining the length of OJTs. The hours specified must be considered as a departure point for determining actual WIA training hours. If the total number of training hours for the OJT position cannot be provided during the maximum contract length allowable, as many training hours as possible must be provided. The OJT training hours for a participant must be reduced if a participant has related prior employment or training in the same or similar occupation. Previous training or experience, which occurred so long ago that skills gained from that experience are obsolete, may be disregarded to the extent that those skills need to be relearned or reacquired. The number of training hours for a participant may be increased based upon the participant's circumstances, such as a disability. The number of hours of training for any participant as well as the process for extending or reducing those training hours from the basic method of determination must be documented.

*e.* OJTs may not be written with temporary help agencies or employee leasing firms for positions which will be "hired out" to other employers for probationary, seasonal, temporary or intermittent

employment. A temporary employment agency may serve as the employer of record only when the OJT position is one of the staff positions with the agency and not a position that will be "hired out."

*f.* In situations in which an employer refers an individual for eligibility determination with the intent of hiring that individual under an OJT contract, the individual referred may be enrolled in an OJT with the referring employer only when the referring employer has not already hired the individual and an objective assessment and service plan have been completed which support the development of an OJT with the referring employer.

*g.* Prior to recontracting with an OJT employer, the past performance of that employer must be reviewed. An OJT contract must not be entered into with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and working conditions at the same level and to the same extent as similarly situated employees. Employer eligibility for future OJT contracts need not result in termination if OJT participants voluntarily quit, are terminated for cause, or are released due to unforeseeable changes in business conditions. An employer that has been excluded from OJT contracting because of failing to hire participants may again be considered for an OJT placement one year after that sanction was imposed. In this recontracting situation, if the employer fails to retain the participant after the OJT ends, and there is no apparent cause for dismissing the employee, the employer must not receive any future OJT contracts.

*h.* OJTs may be written for employed workers when the following additional criteria are met and documented:

(1) The employee is not earning a self-sufficiency wage as defined in the regional customer service plan; and

(2) The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills or workplace literacy, or other appropriate purposes identified in the regional customer service plan.

**53.14(16)** *Preemployment training.* The purpose of preemployment training is to help participants acquire skills necessary to obtain unsubsidized employment and to maintain employment.

*a.* Activities may include, but are not limited to:

(1) Instruction on how to keep jobs, including employer's expectations relating to punctuality, job attendance, dependability, professional conduct, and interaction with other employees;

(2) Assistance in personal growth and development which may include motivation, self-esteem building, communication skills, basic living skills, personal maintenance skills, social planning, citizenship, and life survival skills; and

(3) Instruction in how to obtain jobs, including completing applications and résumés, and interviewing skills.

*b.* Preemployment training activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

*c.* Participants must be covered by adequate on-site medical and accident insurance.

**53.14(17)** *Remedial and basic skill training.* The purpose of remedial and basic skill training is to enhance the employability of participants by upgrading basic literacy skills through basic and remedial education courses, literacy training, adult basic education, and English as a second language (ESL) instruction. Remedial and basic skill training may be conducted in a classroom setting or on an individual basis. Remedial and basic skill training may be used to improve academic or language skills prior to enrollment in other training activities.

*a.* For adults and dislocated workers, remedial and basic skill training must be offered in combination with other allowable training services (not including customized training).

*b.* Remedial and basic skill training activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

*c.* Participants must be covered by adequate on-site medical and accident insurance.

**53.14(18)** *Secondary education certification.* The purpose of secondary education certification is to enhance the employability of participants by upgrading their level of education. Secondary education certification activities may be conducted in a classroom setting or on an individual basis.

*a.* Secondary education certification must be categorized as one of the following:

(1) Secondary school;

(2) Alternative school;

(3) Tutoring; or

(4) Individualized study.

*b.* Participation in this component must be expected to result in a high school diploma, general educational development (GED) certificate, or an individualized educational program (IEP) diploma.

*c.* Secondary education certification activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

*d.* Participants must be covered by adequate on-site medical and accident insurance.

**53.14(19)** *Skill upgrading.* The purpose of skill upgrading is to provide short-term prevocational training to participants to upgrade their occupational skills and enhance their employability. Examples of allowable skill upgrading activities include a typing refresher to increase speed and accuracy, keyboarding, or basic computer literacy. Skill upgrading may be conducted in a classroom setting or on an individual basis, but must be short-term in nature and must not exceed nine weeks in duration. Participants must be covered by adequate on-site medical and accident insurance.

**53.14(20)** *Summer activities.* The purpose of summer activities is to provide a youth with summer employment activities that are directly linked to academic and occupational learning.

*a.* The employment component provides participants with a positive employment experience during the summer months. The employment experience should be directly linked to academic and occupational learning activities. The employment component could be a limited internship, on-the-job training, vocational exploration, or work experience.

*b.* The summer academic learning component assists youth in achieving academic success. For in-school youth the goal is to prevent the erosion of basic literacy skills over the summer months and, to the extent possible, to increase basic literacy skill levels, particularly in reading and math. In addition, the purpose of the academic learning component includes the improvement of the employment potential of individuals who are not intending to return to school.

(1) All participants must have at least 30 hours of academic learning activities included in their service strategies.

(2) The academic learning activities should be designed as a comprehensive instructional approach that includes thinking, reasoning, and decision-making processes that are necessary for success in school, on the job, and in society in general.

(3) The academic learning activity may include:

1. Remedial and basic skill training;
2. Basic literacy training;
3. Adult basic education;
4. English as a second language;
5. General educational development (GED) instruction;
6. Tutoring;
7. Study skills training;
8. Leadership development opportunities;
9. Adult mentoring;
10. Citizenship training;
11. Postsecondary vocational and academic courses;
12. Applied academic courses; and
13. Other courses or training methods that are intended to retain or improve the basic educational skills of the participant.

(4) The academic learning activities may be conducted in a classroom setting or on an individual basis. The academic learning curriculum provided to a participant should take into account the learning level and interests of that participant.

(5) A participant may be paid a wage-equivalent payment (stipend) based upon attendance for time spent in the academic learning activity, or may be paid release time wages for time spent in the academic learning activity if work experience, on-the-job training, limited internship or vocational exploration is the primary activity. In lieu of being paid a stipend or wages, the youth may be rewarded with an incentive and bonus payment. Participants cannot be paid for unattended hours in the academic learning activity.

*c.* The occupational learning component provides youth with an opportunity to learn occupational skills related to a specific occupation, or to an occupational cluster. The occupational learning activities may be incorporated in the employment or academic learning component or may be a separate component such as skill upgrading.

*d.* Participants must be covered by adequate on-site medical and accident insurance.

**53.14(21)** *Vocational exploration.* The purpose of vocational exploration is to expose participants to jobs available in the private or public sector through job shadowing, instruction and, if appropriate, limited practical experience at actual work sites.

*a.* Vocational exploration may take place at public, private nonprofit, or private-for-profit work sites.

*b.* The total participation in this activity for any participant in any one occupation must not exceed 160 hours per enrollment.

*c.* The length of a participant's enrollment is limited to a maximum of 640 hours, regardless of the number of explorations conducted for the participant.

*d.* The participant must not receive wages for the time spent in this activity and is not necessarily entitled to a job at the end of the vocational exploration period.

*e.* The service provider must derive no immediate advantage from the activities of the participant and on occasion the operation of the employer may actually be impeded. In the case of private-for-profit organizations, the participant must not be involved in any activity that contributes, or could be expected to contribute, to additional sales or profits or otherwise result in subsidization of wages for the organization.

*f.* Vocational exploration activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

*g.* Participants must be covered by adequate on-site medical and accident insurance.

**53.14(22)** *Work experience.* The purpose of work experience is to provide participants with short-term or part-time subsidized work assignments to enhance their employability through the development of good work habits and basic work skills. Work experience should held participants acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in employment.

*a.* This activity should be used for individuals who have never worked or have been out of the labor force for an extended period of time including, but not limited to, students, school dropouts, individuals with disabilities, displaced homemakers, and older individuals. Work experience must be limited to persons who need assistance to become accustomed to basic work requirements, including basic work skills, in order to successfully compete in the labor market.

*b.* Work experience may be used to provide:

(1) Instructions concerning work habits and employer and employee relationships in a work environment;

(2) An improved work history and work references;

(3) An opportunity to actively participate in a specific work field; and

(4) An opportunity to progressively master more complex tasks.

*c.* Work experiences may be paid or unpaid. If the participant is paid wages, the wages must be at the same rates as similarly situated employees or trainees of the employer of record, but in no event less than the higher of the federal or state minimum wage. In most situations, the service provider is the employer of record. Participants must always be paid for time worked, but must not be paid for any scheduled hours they failed to attend without good cause.

*d.* In addition, all individuals participating in work experience must be provided benefits and working conditions at the same level and to the same extent as other employees of the employer of record working a similar length of time and doing the same type of work. Each participant must be covered either by workers' compensation in accordance with state law or by adequate on-site medical and accident insurance. Participants are exempt from unemployment compensation insurance. Therefore, unemployment compensation costs are not allowable.

*e.* Under certain conditions participants in a wage-paying work experience may be paid for time spent attending other activities. Such payments may be made only if work experience participation is scheduled for more than 50 percent of the scheduled training time in all activities. Usually, the participant will be enrolled simultaneously in both the work experience and another activity.

*f.* Service providers may supplement the costs of wages and fringe benefits only if the service provider is the employer of record. In these instances, the payment for work experience would be made to the employer after adequate time and attendance and supporting documentation is provided. Any such arrangement must be specified in an agreement with the service provider.

*g.* Work experience may take place in the private, for-profit sector, the nonprofit sector, or the public sector. A participant cannot be placed in work experience with an employer with whom the participant is already employed in an unsubsidized position.

*h.* Work experience must not be used as a substitute for public service employment activities.

*i.* A work experience agreement at one work site may be written for a maximum of 13 calendar weeks unless the agreement is for a part-time work experience of less than 500 hours, in which instance the activity period may be extended to a maximum of 26 weeks.

**53.14(23)** *Miscellaneous services.*

*a.* Bonding is an allowable cost, if it is not available under federally or locally sponsored programs. If bonding is an occupational requirement, it should be verified that the participant is bondable before the participant is placed in training for that occupation.

*b.* The costs of licenses or application fees are allowable if occupationally required.

*c.* The costs of relocation are allowable if it is determined by service provider staff that a participant cannot obtain employment within a reasonable commuting area and that the participant has secured suitable long-duration employment or obtained a bona fide job offer in the area of relocation.

*d.* The costs of lodging for each night away from the participant's permanent home are allowable if required for continued program participation. While the participant is away from home or in travel status for required training the costs for meals are allowable.

*e.* The costs of special services, supplies, equipment, and tools necessary to enable a participant with a disability to participate in training are allowable. It is not an allowable use of WIA funds to make capital improvements to a training or work site for general compliance with the Americans with Disabilities Act requirements.

*f.* Supported employment and training payments are allowable to provide individuals requiring individualized assistance with one-on-one instruction and with the support necessary to enable them to complete occupational skill training and to obtain and retain competitive employment. Supported employment and training may only be used in training situations that are designed to prepare the participant for continuing nonsupported competitive employment. Employment positions supported at sheltered workshops or similar situations may not utilize this activity.

*g.* The cost of transportation necessary to travel to and from WIA activities and services, including job interviews, are allowable.

*h.* Incentive and bonus payments are allowable to reward youth for attendance or achievement. Payments must be based upon a local policy that is described in the regional customer service plan, is applied consistently to all participants and is based on attendance or achievement of basic education skills, preemployment/work maturity skills, or occupational skills. The payments may be based on a combination of attendance and achievement.

[Editorial change: IAC Supplement 5/14/25]

**871—53.15(84A,PL105-220) Individual training accounts.** The individual training account (ITA) is established on behalf of a participant by the intensive service provider. ITA is the mechanism through

which adults and dislocated workers shall purchase training services from eligible training providers. Payment for supportive services and related needs is not allowable under the ITAs.

**53.15(1)** Adult and dislocated worker service providers must provide participants the opportunity to select an eligible training provider, maximizing participant choice yet also allowing consultation from the participant's case manager. Unless the program has exhausted funding or has insufficient funds to cover the estimated cost of the program, the service provider must refer the individual to the selected training provider. Since funds are limited, priority shall be given to recipients of public assistance and other low-income individuals.

**53.15(2)** Participants whose application for a Pell Grant is pending may receive training services; however, an agreement must be in place between the participant and the training provider. In the event the Pell Grant is awarded, funds shall be released to reimburse the program and not the participant.

**53.15(3)** Payments from ITAs may be made in a variety of ways including credit vouchers, electronic transfer of funds through financial institutions, purchase orders, credit/debit cards or other appropriate methods. How funds will be transferred within a region, within the state and outside the state shall be a local decision as described by the regional workforce investment board in the local plan.

**53.15(4)** The actual implementation of ITAs will involve the service provider(s) in the region where the participant resides and the selected training provider. Payment amounts and duration of an ITA may be limited according to the needs identified in the individual's employment plan and specified in the local plan.

[Editorial change: IAC Supplement 5/14/25]

**871—53.16(84A,PL105-220) Certification of training providers.**

**53.16(1)** Eligible training providers. Eligible training providers include:

*a.* Postsecondary educational institutions that are eligible to receive funds under Title IV of the Higher Education Act of 1965 and provide a program that leads to an associate degree, baccalaureate degree or certificate;

*b.* Entities that carry out programs under the National Apprenticeship Act; and

*c.* Other public or private providers of a program of training services.

**53.16(2)** Training programs. A program of training services is one or more courses or classes that, upon successful completion, lead to a certificate, an associate degree, or baccalaureate degree; or a competency or skill recognized by employers; or a training regimen that provides individuals with additional skills or competencies generally recognized by employers.

**53.16(3)** Certification process. An application for each training program must be submitted to the regional workforce investment board in the region in which the training provider desires its program to be approved. Each program of training services must be described, including appropriate performance and cost information. Training providers shall be approved, initially, as well as subsequently, by regional workforce investment boards in partnership with the department.

**53.16(4)** Regional workforce investment board role. The regional workforce investment board shall be responsible for:

*a.* Accepting applications from postsecondary educational institutions, entities providing apprenticeship programs, and public and private providers for initial and subsequent approval.

*b.* Submitting to the department the local list of approved providers, including performance and cost information for each program.

*c.* Ensuring dissemination of the statewide list to participants in employment and training activities through the regional workforce development center system.

*d.* Consulting with the department in cases where approved providers shall have their approval revoked because inaccurate information has been provided.

*e.* Notifying all known providers of training in their region regarding the process and time line for accepting applications.

**53.16(5)** Department role. The department shall be responsible for:

*a.* Establishing initial approval criteria as well as setting minimum levels of performance for public and private providers;

*b.* Setting minimum levels of performance measures for all providers to remain subsequently approved;

*c.* Developing and maintaining the state list of eligible training providers, which is compiled from information submitted by the regional workforce investment boards;

*d.* Verifying the accuracy of the information on the state list;

*e.* Removing training providers who do not meet program performance levels;

*f.* Disapproving training providers who provide inaccurate information; and

*g.* Disapproving training providers who violate any provision of the Workforce Investment Act.

**53.16(6)** Initial provider approval. Upon completion of the application, initial approval shall be granted to:

*a.* Postsecondary educational institutions that are eligible to receive funds under Title IV of the Higher Education Act of 1965 and provide a program that leads to an associate or baccalaureate degree, certificate, or diploma; and

*b.* Entities that carry out apprenticeship programs registered under the National Apprenticeship Act.

*c.* Other public and private providers of training services that currently provide a training program shall be required to submit additional information to the regional workforce investment board in the region in which they desire to provide training services.

The department shall accept documentation from the appropriate certification body for postsecondary educational institutions that are eligible to receive funds under Title IV and National Apprenticeship programs, who do not provide a program of training services at the time of application.

**53.16(7)** Other public and private providers of training services that currently do not provide a program of training services at the time of application must:

*a.* Document the need for the training based on specific employer needs in the region; and

*b.* Develop a training curriculum with the agreement of local employers.

Once the training provider's program is approved, the training provider shall be included on a statewide list that will be available to customers seeking training services.

**53.16(8)** To be eligible effective July 1, 2000, interested training providers must submit their applications to the regional workforce investment board in their region. The application date shall be established by each regional workforce investment board. All approved applications must be submitted to the department by May 31, 2000. The department has 30 days from the receipt of the regionally approved applications to review and verify the information provided. Initial approval for all training providers shall be effective until November 30, 2001.

**53.16(9)** If a training provider has been determined to be initially eligible and desires to continue its eligibility, it must submit performance information to the regional workforce investment board and meet performance levels annually.

**53.16(10)** Each regional workforce investment board shall maintain a list of all approved training providers, including providers for on-the-job and customized training in the region, and make the list available statewide. The regional workforce investment board shall submit all approved applications to the department after the applications are received locally. The department shall be responsible for maintaining the statewide list of all approved training providers. The list will be updated at least annually or as needed and made available to participants in employment and training activities and others through the regional workforce development center system. The regional workforce investment board has the responsibility of notifying all known providers of training in the board's region regarding the process and time line for accepting applications. The department may approve training providers from other neighboring states when requested.

**53.16(11)** Application process for initial approval.

*a.* Postsecondary educational institutions that are eligible to receive funds under Title IV of the Higher Education Act of 1965 and entities that carry out programs under the National Apprenticeship Act must submit an application as required by the regional workforce investment board. The regional workforce investment board may develop its own application procedures or adopt the procedure developed by the department for other public and private training providers.

*b.* Other public or private providers of a program of training services shall be required to complete and submit an application to the regional workforce investment board in each region as specified below. The application requires identifying information on the training provider and enrollment periods, as well as the following information:

(1) The name and description of the training program(s) to be offered.

(2) The cost of each training program (tuition; books; supplies, including tools; uniforms; fees, including laboratory; rentals, deposits and other miscellaneous charges) to complete a certificate or degree program or an employer-identified competency skill.

(3) A description of the facility and organization of the school.

*c.* Program completion rate for all individuals participating in the applicable program conducted by the provider. A program completer is a person who has obtained a certificate, degree, or diploma; or received credit for taking the program; or received a passing grade in the program; or finished the required curriculum of the program.

*d.* Percentage of all students in the program who obtained unsubsidized employment.

*e.* Average wages of all students in unsubsidized employment.

For initial approval, the regional workforce investment board may require additional information.

**53.16(12)** Required information for subsequent approval. To remain an approved training provider, all training providers must have their performance information reviewed by the regional workforce investment board on an annual basis. The required performance information for subsequent approval includes the following information:

*a.* Program completion rate for all individuals participating in the applicable program conducted by the provider.

*b.* Percentage of all students who obtained unsubsidized employment.

*c.* Average wages of all students who obtained unsubsidized employment. (If a training provider is using the unemployment insurance database to calculate wages, the average starting wage will be calculated by a national Department of Labor formula that converts quarterly unemployment insurance wages into an hourly rate.)

*d.* Where applicable, the rates of licensure or certification, attainment of academic degrees or equivalents, or attainment of other measures of skill of the graduates of the training program.

*e.* Percentage of WIA participants who obtained unsubsidized employment.

*f.* Percentage of WIA participants who have completed the training program and who are placed in unsubsidized employment.

*g.* Retention rates in unsubsidized employment, six months after the first day of employment, of WIA participants who have completed the training program.

*h.* Average wages, six months after the first day of employment, received by WIA participants who have completed the training program.

*i.* Average actual cost of training, including tuition, fees, and books, for WIA participants to complete the training program.

The department shall publish, on an annual basis, guidelines on acceptable performance measures for training providers.

**53.16(13)** Nonapproval. The department, in consultation with the regional workforce investment board, determines whether or not to approve a training provider. If the regional workforce investment board determines that the training provider does not meet the established performance levels, a written recommendation shall be sent to the division administrator of the division of workforce development center administration. The division administrator shall make a determination whether the training provider is disapproved and removed from the list. Regional workforce investment boards and the department must take into consideration the following factors when determining subsequent approval:

*a.* The specific economic, geographic, and demographic factors in the region in which the training providers seeking approval are located; and

*b.* Characteristics of the populations served by the training providers seeking approval, including difficulties in serving such populations, where applicable.

If it is determined that an eligible provider or an individual supplying information on behalf of the provider intentionally supplies inaccurate information, the department shall terminate the approval of the training provider for a minimum of two years. If either the regional workforce investment board or the department determines that an eligible provider substantially violates any requirement under the Act, it may terminate approval to receive funds for the program involved or take other such action as determined to be appropriate. A provider whose approval is terminated under any of these conditions is liable to repay all WIA training funds it received during the period of noncompliance.

**53.16(14)** Appeal process. If a training provider has been determined to be ineligible by failing to meet performance levels, intentionally supplying inaccurate information, or violating any provision of the Act, it has the right to appeal the denial of approval to the department. The training provider shall follow appeal procedures as defined in 53.24(15).

[Editorial change: IAC Supplement 5/14/25]

**871—53.17(84A,PL105-220) Financial management.** Allowable costs shall be determined in accordance with the Office of Management and Budget (OMB) circulars applicable to the various entities receiving grant funds from the department. Nothing in this rule shall supersede the requirements placed on each entity as promulgated by the applicable OMB circular including factors which affect allowability of costs, reasonable costs, allocable costs, applicable credits, direct costs, indirect or facility and administrative costs, allowable costs as defined in "selected items of costs," in accordance with the appropriate OMB circular.

Additional regulations applicable to contractors are found in 29 CFR Part 97 for State and Local Governments and Part 95 for Institutions of Higher Education, Hospitals and other Non-Profit Organizations. Exceptions to those regulations are that:

1. Procurement contracts and other transactions between local boards and units of state and local governments must be conducted only on a cost reimbursement basis.
2. Program income shall be calculated based on the methods outlined in 53.17(2).
3. Any excess revenue over expenditures incurred for services provided by a governmental unit or nonprofit must be considered program income.

**53.17(1)** General requirements of a financial management system. Financial management systems should provide fiscal controls and accounting procedures that conform to generally accepted accounting principles (GAAP) as they relate to programs administered. A financial management system must also have certain procedures in place to ensure that the system meets the requirements of state and federal laws and regulations.

**53.17(2)** Program income means income generated by a program-supported activity or earned only as a result of the contract.

*a.* Program income includes:

(1) Income from fees for services performed and from conferences;

(2) Income from the use or rental of property acquired with contract funds;

(3) Income from the sale of commodities or items fabricated under a contract;

(4) Income generated due to revenue in excess of expenditures for services rendered, when provided by a governmental unit or nonprofit entity.

*b.* Program income does not include:

(1) Interest earned on grant funds, rebates, credits, discounts, refunds, or any interest earned on any of them. (Such funds shall be credited as a reduction of costs if received during the same funding period. Any credits received after the funding period must be returned to the department.);

(2) Taxes, special assessments, levies, fines, and other governmental revenues raised by a contractor;

(3) Income from royalties and license fees, copyrighted material, patents, patent applications, trademarks, and inventions developed by a contractor;

(4) Any other refunds or reimbursements, such as Pell Grant reimbursement. (Such funds shall be credited back to the program that incurred the original costs.);

(5) Any other funds received as the result of the sale of equipment. (Such funds shall be credited back to the program that incurred the original costs.)

*c.* Costs incidental to the generation of program income must be deducted, if not already charged to the grant, from gross program income to determine net program income. Net program income earned may be retained and not sent back to the department, if such income is added to the funds committed to the particular program under which it was earned. Net program income must be used for allowable program purposes, and under the terms and conditions applicable to the use of that program's funds. Program income generated may be used for any allowable activity under the program that generated that income.

*d.* All net program income generated and expended must be reported to the department each month on the financial status report. Documentation of the use of net program income must be maintained on file. Any net program income not used in accordance with the requirements of this rule must be returned to the department.

(1) The classification of costs, including cost limitations, apply to net program income. Net program income must be disbursed prior to requesting additional cash payments. Net program income not disbursed prior to the submittal of the annual closeout reports must be returned to the department.

(2) If the net program income cannot be used by the region that generated such income for allowable purposes, the funds must be returned to the department. The department may permit another region to use the net program income for allowable purposes.

**53.17(3)** Working capital advance payments of federal funds.

*a.* Reimbursement is the preferred method for payment. However, the subrecipient may provide working capital advance payments of federal funds only to contractors, not vendors or training providers, after determining that:

(1) Reimbursement is not feasible because the contractor lacks sufficient working capital;

(2) The contractor meets the standards of this rule governing advances to contractor;

(3) Advance payment is in the best interest of the grantee or subrecipient; and

(4) The reason for needing an advance is not the unwillingness or inability of the grantee or subrecipient to provide timely reimbursements to meet the contractor's actual cash disbursements.

*b.* If the conditions in 53.17(3)*"a"* are met, working capital advance payments may be made to contractors by use of one of the two procedures outlined below:

(1) Cash is only advanced (through check or warrant) to the contractor to cover its estimated disbursement needs for an initial period, generally geared to the contractor's disbursement cycle, but in no event may the advance exceed 20 percent of the contract amount. After the initial advance, the contractor is only reimbursed for its actual cash disbursements; or

(2) Cash is advanced electronically on a weekly basis similar to the system maintained between the department and its contractors. Drawdowns and expenditures must be timed in a way that minimizes the delay between the receipt and actual disbursement of those funds.

**53.17(4)** Cost allocation. The methods of cost allocation identified in this subrule are not all inclusive. Any method chosen must be consistent with cost allocation principles as defined in the OMB circular applicable to the contractor.

*a.* Any single cost which is properly chargeable to more than one program or cost category is allocated among the appropriate programs and cost categories based on the benefits derived. Contractors that receive WIA funds are required to maintain a written cost allocation for WIA expenditures. A cost allocation plan is the means by which costs related to more than one program or cost category are distributed appropriately. All costs included in a cost allocation plan must be supported by formal accounting records that substantiate the propriety of eventual charges. Each subrecipient must develop a written plan that addresses how joint costs will be allocated during the fiscal year. The plan must include:

(1) The time period involved;

(2) Programs that must be allocated;

(3) Basis to be used for allocation; and

(4) Exceptions to the general rules.

Any cost that cannot be identified as a direct cost of a particular program or a cost category is allocated based on one of the acceptable methods discussed above and must be included in the cost allocation plan.

*b.* Cost allocation plans are based on a documented basis. The basis upon which a given cost is allocated is relevant to the nature of the cost being allocated, and whether the cost is a legitimate charge to

the program(s) and cost category to which it is being allocated. The basis upon which costs are allocated is consistent throughout the fiscal year.

*c.* Possible acceptable actual bases for allocating costs include:

(1) Staff timesheet allocation basis (fixed or variable).

(2) Service level allocation basis (fixed or variable).

(3) Usage rate allocation basis (fixed or variable).

(4) Full-time employees basis (fixed only).

*d.* Funds received under various programs may be allocated using the cost pooling method. Under a cost pooling method, expenditures that cannot be identified to a particular cost category or program may be pooled and allocated in total on a monthly basis. If this method is established, the expenditures must be allocated to each program based upon the benefit derived by each program. Cost pools may be established for a cost category, a line item in an agency's budget or to include multiple programs. The process used to allocate pool costs must ensure that no program or cost category is charged an amount in excess of what is allowed by law or regulation. Examples include:

(1) Administrative, program services or combined cost category pool. (An administrative pool may be used if an entity also has administrative costs associated with programs other than WIA Title I programs.)

(2) Facility or supplies line item cost pool.

(3) Workforce (multiple) programs.

*e.* Cost allocation plans must be submitted by August 31 of each year to Bureau of Administrative Support, Budgeting and Reporting, Department of Workforce Development, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

**53.17(5)** Indirect costs may be charged to programs, if the contractor has an approved indirect cost agreement with a federal cognizant agency or another state agency and the agreement covers the term of the grant. The plan must be in compliance with the applicable OMB circular for the entity charging indirect costs.

**53.17(6)** Time and attendance documentation must be maintained for any individual who receives any part of the individual's wage from programs funded by WIA and for all participants receiving payments based in whole or in part on attendance in programs funded by WIA.

**53.17(7)** A contractor receiving federal or state funds from the department and conducting its own procurement must have written procurement procedures. The procedures must be consistent with applicable state and local laws and regulations; the procurement standards set forth in this subrule; and the regulations as described in 29 CFR Part 95 for institutions of higher education and nonprofit organizations; or 29 CFR Part 97 for state and local government organizations.

*a.* State and federal procurement laws and regulations, including the procurement standards set forth in this subrule, take precedence over any contractor procurement policies and procedures.

*b.* The written procurement policies and procedures of each contractor must include, at a minimum, the following elements:

(1) Authority to take procurement actions;

(2) Standards of conduct;

(3) Methods of procurement;

(4) Solicitation procedures; and

(5) Documentation requirements.

*c.* There are three types of allowable procurement procedures: request for quotations (RFQ), request for proposals (RFP), and sole source. Contractors must conduct competitive procurement except as outlined in *"d"* below.

*d.* The circumstances or situations under which sole source procurement is allowable are limited to the following:

(1) Any single purchase of supplies, equipment, or services totaling less than $2,000 in the aggregate;

(2) Single participant work experience, vocational exploration, limited internship and on-the-job training contracts;

(3) Enrollment of individual participants in institutional skills training;

(4) All other individual training or services contracts involving only one participant, except where such contracts include the purchase of property. Such property must be purchased through competitive procedures;

(5) Activities and services that are provided by the fiscal agent, designated service provider, or subrecipient when a determination of demonstrated performance clearly documents the staff's ability to provide the training or services;

(6) A modification to a contract that does not substantially change the statement of work of that contract;

(7) After solicitation of an adequate number of sources, only one acceptable response was received;

(8) Any single service or workshop costing less than $5,000 identified in the regional customer service plan;

(9) Supplies, property and services which have been determined to be available from a single source; and

(10) An emergency situation for which the department or applicable governing boards provide written approval.

**53.17(8)** Property purchased with funds received through the department must be acquired in accordance with the department standards.

*a.* Prior approval must be obtained from the department before purchasing any property with a unit acquisition value of $5,000 or more.

*b.* Real property (real estate and land) shall not be purchased with funds received through the department.

*c.* Title to all property purchased with the department funds, including participant property, is vested with the state if the state is the majority owner. (If more than one agency contributed funds for the purchase of property, the majority owner is the entity that provided the largest portion of funds. In instances in which entities contributed the same amount of funding, the state is considered the majority owner.)

*d.* Prenumbered department property tags shall be affixed to all property with a unit acquisition value of $2,000 or more, and to all personal computer logic units and monitors. Unnumbered department property tags shall be affixed to all property with an aggregate value of $2,000 or more at time of purchase. Prenumbered and unnumbered tags will be provided to each region.

*e.* At a minimum, an inventory of all property must include the following:

1. Property tag number, if applicable;
2. Description of the property;
3. Stock or identification number, including model and manufacturer's serial number, when applicable;
4. Manufacturer;
5. Purchase date;
6. Purchase order number, when applicable;
7. Unit cost;
8. Location of property;
9. Condition of property;
10. Disposition of property as applicable; and
11. Grant agreement number.

*f.* A physical observation of all property must be conducted by the program operator prior to the end of each fiscal year (June 30). A complete inventory list must be provided to the department in each fiscal year's close-out package.

*g.* All property purchased with the department funds or transferred from programs under the authority of the department must be used to meet program objectives and the needs and priorities identified in the regional customer service plan. Property purchased with the department funds must be used by the coordinating service provider or program operator in the program or project for which it was acquired, as long as it is needed for that project or program. When no longer needed for the original program or project, the property may be used in other activities supported by the department.

*h.* The department-purchased property may be made available for use on other projects or programs providing such use does not interfere with the work on the project or program for which it was originally acquired. Priority should be given to other programs or projects supported by the department.

*i.* Disposition of any property, including participant property, is allowable only with the written concurrence of the department. The request to dispose of property must be in writing and include:

1. A description of the property;
2. Its purchase price;
3. Property tag number;
4. Current condition; and
5. Preference for the method of disposal.

*j.* The method of disposal may be the outright disposal by local waste agencies of items that are either unusable or unsafe or are currently of immaterial value. Those items that do not fit this definition may be sold locally, using a public process, to generate program income.

*k.* Requests to dispose of property are to be sent to Business Management, Department of Workforce Development, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

*l.* Any funds generated from sale of property are to be considered program income and must be used to further the objectives of the program(s) that paid for that property originally. If that funding source no longer exists, then the program income generated must be used for other allowable employment or training activities. In cases where the property was purchased from multiple funding sources, the program income generated may be attributed to the funding source that paid the greatest share of the cost of the property. Otherwise, the program income must be allocated by the same percentages as were used to purchase the property originally.

**53.17(9)** Certifications. All contractors must certify, as a condition to receive funding, compliance with the following laws and implementing regulations:

*a.* Workforce Investment Act of 1998 (P. L. 105-220) and all subsequent amendments.

*b.* U.S. Department of Labor implementing regulations.

*c.* Iowa Code chapters 84, 84A, and 96.

*d.* Iowa Administrative Code 871—Chapter 57.

*e.* Iowa Civil Rights Act of 1965.

*f.* OMB Circular A-87 for State and Local Governments.

*g.* OMB Circular A-122 for Non-Profit Entities.

*h.* OMB Circular A-21 for Institutions of Higher Education.

*i.* Appendix E of 45 CFR Part 74 for hospitals receiving research and development grants.

*j.* 29 CFR Part 97 for State and Local Governments.

*k.* 29 CFR Part 95 for Institutions of Higher Education, Hospitals and other Non-Profit Organizations.

*l.* Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

*m.* Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

*n.* Americans with Disabilities Act of 1990.

*o.* Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

*p.* Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

*q.* Debarment and suspension; restrictions on lobbying (29 CFR Part 93).

*r.* Drug-Free Workplace (29 CFR Part 98).

*s.* Other relevant regulations as noted in the department's handbook for grantees and contracts for services with the department.

**53.17(10)** Unallowable costs. WIA funds shall not be spent on the following:

*a.* Wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system.

*b.* Expenses prohibited under any other federal, state or local law or regulation.

*c.* Foreign travel, if the source of funds is formula funds under Subtitle B, Title I of WIA.

*d.* Financial assistance for any program involving political activities.

*e.* The encouragement of a business to relocate from any location in the United States if the relocation results in any employees losing their jobs at the original location.

*f.* Customized, skill, or on-the-job training or company-specific assessments of job applicants or employees of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employees losing their jobs at the original location.

*g.* Any region may enter into an agreement with another region within the same labor market to pay or share costs of program services, including supportive services. The agreement must be approved by each regional board providing guidance to the area and shall be described in the regional customer service plan.

*h.* WIA funds cannot be used for public service employment except for disaster relief employment.

*i.* Fees may not be charged for placement or referral to a WIA activity. However, services, facilities, or equipment funded under the WIA may be used on a fee-for-service basis by employers in a region in order to provide employment and training activities to incumbent workers when such services, facilities, or equipment is not in use to provide services for WIA participants; if such use for incumbent workers would not have an adverse affect on providing services to WIA participants; and if the income derived from such fees is used to carry out WIA programs.

*j.* WIA funds may not be spent on employment generating activities, economic development, and other similar activities, unless they are directly related to training for eligible individuals. Employer outreach and job development activities are directly related to training for eligible individuals. Allowable employer outreach and job development activities include:

(1) Contacts with potential employers for the purpose of placement of WIA participants;

(2) Participation in business associations (such as chambers of commerce);

(3) Staff participation on economic development boards and commissions, and work with economic development agencies to provide information about WIA programs, to assist in making informed decisions about community job training needs, and to promote the use of first source hiring agreements and enterprise zone vouchering services;

(4) Active participation in local business resource centers (incubators) to provide technical assistance to small and new business to reduce the rate of business failure;

(5) Subscriptions to relevant publications;

(6) General dissemination of information of WIA programs and activities;

(7) The conduct of labor market surveys;

(8) The development of on-the-job training opportunities; and

(9) Other allowable WIA activities in the private sector.

*k.* The employment or training of participants in sectarian activities is prohibited, as is the construction, operation or maintenance of any part of any facility that is used for sectarian instruction or religious worship. However, WIA funds may be used for the maintenance of a facility that is not primarily devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIA participants.

*l.* WIA Title I funds may not be used for the encouragement of a business to relocate from any location in the United States if the relocation results in any employee's losing a job at the original location. Also, WIA Title I funds may not be used for customized, skill, or on-the-job training or company-specific assessments of job applicants or employees of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employee's losing a job at the original location. Pre-award reviews must be conducted to verify that employers are new or expanding and are not relocating from another area.

*m.* A participant in a program or activity authorized under Title I of WIA shall not displace (including a partial displacement) any current employee as of the date of the participation. In addition, a program or activity authorized under Title I of WIA must not impair existing contracts for services or collective bargaining agreements. If so, the appropriate labor organization and employer must provide written concurrence before the program or activity begins. Regular employees and program participants alleging displacement may file a complaint under WIA grievance procedures.

**53.17(11)** Record retention. Contractors must maintain all records pertinent to funds received from IWD, including financial, statistical, property, and participant records and supporting documentation.

*a.* Contractors shall maintain books, records, and documents that sufficiently and properly document and calculate all charges billed for a period of at least five years after the end of each contractor's fiscal year.

*b.* All records must be retained for a longer period of time if any litigation, audit, or claim is started and not resolved during that period. In these instances, the records must be retained either for five years after the end of the entity's fiscal year or for three years after the litigation, audit, or claim is resolved, whichever is longer.

*c.* Records for property must be retained for a period of three years after the final disposition of the property.

**53.17(12)** Disaster recovery system. The contractor must ensure that a satisfactory plan is in place for record recovery in the event that critical records are lost due to fire, vandalism, or natural disaster. All computerized or microfilmed MIS and accounting records must be safeguarded by off-site or multiple-site storage of such records.

**53.17(13)** Access to records. The state, U.S. Department of Labor, Director—Office of Civil Rights, the Comptroller General of the United States, and any of their authorized representatives must have timely and reasonable right of access to any pertinent books, documents, papers, or other records of the contractor to make audits, examinations, excerpts or transcripts. These rights are not limited to the record retention policies, but may last as long as the records are actually retained by the contractor. If the contractor has established a retention period longer than that required by the regulations, access to those records, by any of the above organizations, does not cease until the records are actually destroyed or discarded.

**53.17(14)** Records substitution. Substitution of original records can be made by microfilming, photocopying, film imaging or other similar methods.

[Editorial change: IAC Supplement 5/14/25]

**871—53.18(84A,PL105-220) Auditing.**

**53.18(1)** State and local governments, nonprofits, institutions for higher education and hospitals. Contractors that expend $300,000 or more in a fiscal year in federal funds shall have a single or program-specific audit conducted for that year. Contractors that expend $300,000 or more in federal funds in a fiscal year shall have a single audit conducted, in compliance with OMB Circular A-133 (A-133), except when they elect to have a program-specific audit conducted. Program-specific audits are allowed under the following circumstances:

*a.* A contractor expends federal funds under only one federal program; and

*b.* Federal program laws, regulations, or grant agreements do not require a financial statement audit of the contractor.

Contractors that expend less than $300,000 in federal funds in a fiscal year are exempt from federal audit requirements for that year. However, records must be made available for review or audit by the state and federal agencies and the General Accounting Office.

**53.18(2)** Commercial organizations. If such entities expend more than $300,000 in federal funds in their fiscal year, then either an A-133 audit or a program-specific audit must be conducted.

**53.18(3)** Vendors. In most cases, contractors need only ensure that procurement, receipt, and payment for goods or services comply with the laws, regulations, and the provisions of contracts or agreements. However, the contractor is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine compliance. If these transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of the contract or agreement.

**53.18(4)** Relation to other audits. Audits performed in accordance with A-133 are in lieu of any financial audit required under individual federal awards. To the extent that this audit meets a federal agency's needs, it shall rely upon and use such audits. However, this does not limit the authority of the federal agency, including the General Accounting Office, to conduct or arrange for additional audits.

Federal agencies that conduct additional audits shall ensure that they build upon audit work previously conducted and be responsible for costs incurred for the additional audit work.

**53.18(5)** Frequency of audits. With the following exceptions, the audit is normally conducted on an annual basis. Entities which are required by constitution or statute, in effect on January 1, 1987, to have audits performed less frequently are permitted to undergo audits biennially. Also, nonprofit entities that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, are permitted to undergo audits biennially.

**53.18(6)** Completion and submittal. The audit must be completed and data collection/reporting package forms are to be submitted the earlier of 30 days after the completion of the audit or within nine months after the period covered by the audit. The data collection form and reporting package must also be submitted to the federal clearinghouse designated by the Office of Management and Budget. In addition, one copy of the reporting package and any management letters issued by the auditors are to be submitted to Budgeting and Reporting Bureau, Department of Workforce Development, 1000 E. Grand Avenue, Des Moines, Iowa 50319. Each contractor shall provide one copy of the reporting package to the contracting entity that provided the contractor with WIA funds.

**53.18(7)** Data collection form. Each contractor shall submit a data collection form to the contracting entity that provided the contractor with WIA funds. This form should state whether the audit was completed in accordance with A-133 guidelines and provide information concerning the federal funds and the results of the audit. The form used shall be approved by the Office of Management and Budget, available from the clearinghouse designated by OMB, and include a signature of a senior level representative of the contractor. Also, a certification must be submitted which states that the entity audited complied with the requirements of A-133, that the form was prepared in accordance with A-133, and that the form, in its entirety, is accurate and complete.

The auditors must sign a statement to be included with the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, the form is not a substitute for the reporting package, and the content of the form is limited to the data elements prescribed by OMB.

**53.18(8)** Reporting package. Auditors are required to complete a reporting package that includes:

1. Financial statements and schedule of expenditures of federal awards;
2. Summary schedule of prior audit findings;
3. Auditor's report(s); and
4. Corrective action plan.

**53.18(9)** Records retention. One copy of the data collection form and one copy of the reporting package must remain on file for three years from the date of submission to the federal clearinghouse.

**53.18(10)** Audit resolution. If an audit is completed with no findings, the department shall receive a notification of audit letter from the appropriate audit firm. The auditee shall be notified of the acceptance of that letter. In no case shall the date from receipt of an acceptable audit report or notification letter to the date of the final determination exceed 180 days. The department shall issue an initial determination within 30 days of receipt of each audit report with negative findings. Such initial determination shall identify costs questioned under the audit and either propose corrective actions to be taken or request additional documentation from the auditee.

*a.* Each initial determination shall include:

(1) Relevant statutory, regulatory or grant agreement citations supporting the findings and determinations;

(2) Necessary corrective actions required by the auditee to achieve compliance;

(3) A request for additional documentation, as necessary, to adequately respond to the findings; and

(4) Notice of the opportunity for an audit resolution conference with the department.

Each auditee shall be allowed a 30-day period in which to respond. An additional 30 days in which to respond may be requested in writing prior to the end of the initial 30 days. Such request shall include the reason the extension is needed and the date by which the response will be completed. Such a request must be received by the department no later than 30 days after the issuance of the initial determination. The auditee shall be notified in writing of the approval or disapproval of the request.

*b.* Within 30 days after the due date of the response to the initial determination, a final determination shall be issued and sent to the auditee. A final determination shall be issued whether or not a response to the initial determination has been made. The final determination shall include:

(1) Identification of those costs questioned in the audit report that will be allowed and an explanation of why those costs are allowed;

(2) Identification of disallowed costs, a listing of each disallowed cost and a description of the reasons for each disallowance;

(3) Notification to the chief elected official board and auditee of final determination and debt establishment, if relevant; and

(4) Information on the auditee's and chief elected official board's right to appeal through the department's appeals process.

When a debt has been established, the final determination will be used to set up a debt account in the amount of the debt.

**53.18(11)** The decision to impose the disallowed cost sanction shall take into consideration whether or not the funds were expended in accordance with that program's rules and regulations, the contract agreement, the Iowa Administrative Code and generally accepted accounting practices. Ignorance of the requirements is not sufficient justification to allow a previously questioned cost nor will the auditee's inability to pay the debt be a consideration in the decision to impose the disallowed cost sanction.

**53.18(12)** An audit file shall be maintained for each audit or notification letter received from each auditee. The audit may not be considered closed until such time as the federal clearinghouse designated by the Office of Management and Budget accepts the state's resolution report.

[Editorial change: IAC Supplement 5/14/25]

**871—53.19(84A,PL105-220) Debt collection procedures.**

**53.19(1)** Debt collection begins once the debt has been established by either an audit final determination or financial/program monitoring final decision letter. Debts arising from other forms of oversight will be identified through written communication to the chief elected official board.

**53.19(2)** If the debt is appealed, debt collection is suspended until that appeal is resolved. If the appeal is granted, debt collection shall not be established.

**53.19(3)** No earlier than 15 days, but not later than 20 days, after the debt has been established, an initial demand for repayment letter shall be sent to the chief elected official board by certified mail with return receipt requested. The initial demand letter informs the chief elected official board that a debt has been established and references the previous letter that established the debt. When applicable, instructions for requesting a waiver from debt shall be provided in the letter. The chief elected official board shall be granted 15 days from the date of the initial demand letter either to submit payment in full or to forward the applicable request for waiver. If the chief elected official board refuses those options, does not accept the letter, or if no response is received within the required time frame, a final demand for payment shall be issued.

**53.19(4)** The final demand letter, also sent by certified mail with return receipt requested, shall ask for payment within 10 days from the date of that letter. If the chief elected official board refuses the options identified in the final demand letter, does not accept the letter or does not respond, legal action shall be taken. Such action will seek payment of the debt as well as applicable court costs and accrued interest.

**53.19(5)** The debt collection process is suspended if a request for waiver is received by the department in accordance with waiver policies applicable to that program. If the request for waiver is denied, the debt collection process will continue.

**53.19(6)** Payment options. Payment options include the following:

*a.* Payment in full. Payment of debts is generally a one-time cash payment due at the time of final determination by the department. In cases of documented financial hardship or for other reasons as allowed by law, the department may grant repayment as outlined in *"b"* or *"c"* below. However, the department may charge interest on debts from the date they are established.

*b.* Repayment agreement. A repayment agreement may be negotiated for a time period not to exceed one year. The agreement must be written and signed by both parties. The agreement must include a schedule of payments which includes exact payment dates, amount of debt and each payment, interest,

dates of agreement and a requirement for payment in full for breach of the agreement by the chief elected official board.

*c.* Allocation reduction. Where allowable, a reduction may be made in a chief elected official board's budget to offset a debt. This may be done in cases where the misexpenditure of funds was not due to willful disregard of the Act or regulations, gross negligence, failure to observe accepted standards of administration or a pattern of misexpenditure. Such allocation reductions will come from administrative funds only.

[Editorial change: IAC Supplement 5/14/25]

**871—53.20(84A,PL105-220) Grantee report requirements.**

**53.20(1)** *Financial reports.* Financial status reports and funds verification forms are tools used by the department for oversight of financial activity, as well as providing the documentation necessary to complete state and federal reports. Failure to report in a timely manner may result in advance payment delays, negative performance evaluations or possible termination of the contract.

*a.* Financial status reports. Expenditures must be reported according to the programs and cost categories identified in the budget summary section of each contract. Revenue is reported according to the amount drawn from the department, via wire transfer, at the end of the reporting period. At least quarterly (September, December, March and June reports) expenditures must be reported on an accrued cost basis. Expenditures should further be reported on a modified first-in, first-out basis, which means the oldest year's funds, by cost category, are to be expended first. Financial status reports and fund source pages are to be submitted to Department of Workforce Development, Bureau of Financial Management, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

*b.* Funds verification forms. Funds drawn by the contractor from the department are done so by electronic funds transfer. The funds are generally requested on Monday of each week and distributed on Friday of the same week. Exceptions are made for weeks that include holidays, and those are addressed on a case-by-case basis. The financial management bureau of the department shall notify contractors in advance of call-in date changes. Funds are requested by preparation of an electronic funds verification form that is attached to an E-mail request. This is sent to the financial management bureau and is the basis for the Friday wire transfer. In order to establish a wire transfer system for a contractor, bank account information must be received by the department two weeks prior to the first wire transfer of funds. The timing of the contractor's receipt of funds and the disbursement of those funds must be done in a manner that minimizes the time that elapses between those two transactions.

**53.20(2)** *Program reports.* The information entered into the department's management information system is the official database to be used for reporting. Reports are to be submitted to the program coordinator responsible for each individual program. Monthly expenditure reports are due the twentieth of the month following the month that is being reported. Final federal program reports for adult and dislocated worker programs are due August 15 of each year.

Final federal program reports for youth programs are due May 15 of each year.

**53.20(3)** *Performance reports.* Progress on performance objectives must be reported to the department on a quarterly basis. Quarterly progress reports are due from each regional workforce investment board on October 30, January 31, and April 30 of each year. The annual progress report is due from each region to the department on August 15 of each year.

[Editorial change: IAC Supplement 5/14/25]

**871—53.21(84A,PL105-220) Compliance review system.** The department shall conduct annual financial, program, and quality reviews.

**53.21(1)** *Financial compliance reviews.* An annual financial compliance review shall be conducted by the department. The on-site reviews will be of all programs administered through written agreement between the department, the subrecipient, and the fiscal agents. Monitoring of non-fiscal agent entities will be limited to those subcontractors of the department that receive $100,000 or more during the fiscal year. The monitoring will be performed to ensure compliance with, but is not limited to, federal and state laws and regulations, the workforce development center system handbook, welfare-to-work handbook,

contractual agreements with the department, and generally accepted accounting principles, memorandum(s) of understanding, resource sharing agreements and cost allocation plans.

**53.21(2)** *Program compliance reviews.* An annual program compliance review shall be conducted by the department. The reviews will focus on the designated service providers for various programs. The on-site reviews include, but are not limited to, the following: activities and services; applicant and participant processes; participant eligibility; participant file review; procurement procedures; management information systems; local plans; and verifications of program performance. The review will ensure local compliance with the applicable state and federal laws and regulations.

**53.21(3)** *Initial determination.* Separate initial determination letters are completed for each on-site visit. The report shall include a description of findings, which includes specific references to the standards, policies or procedures which have been violated; if necessary, recommended and required corrective action to be implemented by the contractor, designated service provider or coordinating service provider; a description of any questioned costs, including the amount; and time frames for completing any corrective action and responding to the initial report. Responses to the initial determination letter shall be submitted to the department within 20 days from the date of receipt of the letter.

**53.21(4)** *Final determination.* A final determination letter shall be issued to the subrecipient within 20 days after receipt of the response from the fiscal agent. The letter shall state the department's determination on all findings that required a response and the notification of the right to appeal the final determination. If any findings are unresolved or if costs are disallowed, the letter shall also include a description of the unresolved finding(s); a citation or reference to the applicable regulations or policies on which the finding was based; the final determination of the department on each unresolved finding; and, if there are disallowed costs, the amount of costs disallowed and notification that an initial demand letter shall be sent. Copies of the final determination letter shall be sent to each region's regional workforce investment board, chief elected official board, and coordinating service provider chairs.

**53.21(5)** *Follow-up.* Follow-up on findings identified shall be conducted during the following fiscal year's review. The department's follow-up will review corrective actions taken in response to those findings.

**53.21(6)** *Appeals.* The subrecipient may submit an appeal of a final determination within ten days of receipt of the final determination. The appeal may be on behalf of a designated service provider, coordinating service provider or the fiscal agent. The appeal must be directed to the Division Administrator, Division of Workforce Services, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. The request for an appeal must also include a copy of the final determination and the basis for the appeal. Appeals shall be reviewed by a three-member appeal committee which shall include one staff member from three different bureaus in the department. Appeals shall be reviewed by staff not actually involved in the on-site monitoring that resulted in the original finding and subsequent final determination. A decision on the appeal shall be rendered by a majority vote of the appeal committee. If the appeal committee cannot arrive at a decision, the division administrator shall make the final decision.

**53.21(7)** *Quality reviews.* The department shall conduct annual quality reviews. The reviews will focus on overall workforce development center system performance, customer satisfaction, and continuous improvement.

*a.* System performance measures will be reviewed with the coordinating service provider to identify areas of strength and areas that may need improvement. The review will include an interview with the required workforce development center system partners individually or the partners as a group, or both. The regional customer service plan will also be reviewed to determine what progress is being made to meet the needs and priorities identified by the regional workforce investment board and chief elected official board. In the event system performance standards are not being met, the objective of the review will be to help identify methods for improvement. Should the same issues be identified for two consecutive years, a corrective action plan will be required by the department. All other issues will be referred to the regional workforce investment board for its action.

*b.* The memorandum(s) of understanding between the workforce development center system partners and the regional workforce investment board will be reviewed. The purpose is to ensure that the products and services offered through the system are available, accessible, and being used.

*c.* The review will look at efforts being made to coordinate workforce development services throughout the region, to build new partnerships, and to assess the results of these efforts. This may include, but is not limited to, joint grant applications, efforts to integrate services and minimize duplication from the system, level of participation in the system by required and voluntary partners, and unique funding or service delivery methods involving multiple service providers.

*d.* Overall customer satisfaction of the workforce development center system is to be evaluated. Randomly selected program participants and employers identified in the common intake system will be interviewed. The interview will include, at a minimum, a review of the customer's file as presented on the common intake system, the customer's overall perception of how the customer was treated, an evaluation of the services offered as compared to the needs of the customer, and a review of the case file with the case manager.

*e.* An exit interview to review the findings will be conducted with the regional workforce investment board and coordinating service provider. Methods for improving systems will be discussed and an agreement reached on their implementation. The coordinating service provider will have 14 days to respond to the findings and recommendations, at which time a final report will be prepared and delivered to the chair of the regional workforce investment board.

[Editorial change: IAC Supplement 5/14/25]

**871—53.22(84A,PL105-220) Equal opportunity compliance.** Reserved.

**871—53.23(84A,PL105-220) Regional level complaint procedures.** Each coordinating service provider must establish procedures for grievances and complaints. At a minimum, the local procedures must provide:

**53.23(1)** A process for dealing with grievances and complaints from participants and other interested parties affected by the local workforce investment system, including one-stop partners and service providers;

**53.23(2)** An opportunity for an informal resolution and a hearing to be completed within two days of the filing of the grievance or complaint;

**53.23(3)** A process which allows an individual alleging a labor standards violation to submit a grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides; and

**53.23(4)** An opportunity for a local level appeal to the department when:

*a.* No decision is reached within 60 days; or

*b.* Either party is dissatisfied with the local hearing decision.

**53.23(5)** Participants, service providers and other interested individuals must be informed of the local complaint procedure in writing, as well as the ability and procedures to appeal local decisions to the department.

[Editorial change: IAC Supplement 5/14/25]

**871—53.24(84A,PL105-220) Department complaint procedures.** Complaints may be filed with the department to resolve alleged violations of the Act, federal or state regulations, grant agreement, contract or other agreements under the Act. The department's complaint procedure may also be used to resolve complaints with respect to audit findings, investigations or monitoring reports.

**53.24(1)** Grievances and complaints from customers and other parties related to the regional workforce development center system and regional programs shall be filed through regional complaint procedures. Any party which has alleged violations at the regional level, and has filed a complaint at the regional level, may request review by the department if that party receives an adverse decision or no decision within 60 days of the date the complaint was filed at the regional level.

**53.24(2)** Any interested person, organization or agency may file a complaint. Complaints must be filed within 90 calendar days of the alleged occurrence. Complaints must be clearly portrayed as such and meet the following requirements:

*a.* Complaints must be legible and signed by the complainant or the complainant's authorized representative;

*b.* Complaints must pertain to a single subject, situation or set of facts and pertain to issues over which the state has authority (unless appealed from the regional level);

*c.* The name, address and telephone number (or TDD number) must be clearly indicated. If the complainant is represented by an attorney or other representative of the complainant's choice, the name, address and telephone number of the representative must also appear in the complaint;

*d.* Complaints must state the name of the party or parties complained against and, if known to the complainant, the address and telephone number of the party or parties complained against;

*e.* Complaints must contain a clear and concise statement of the facts, including pertinent dates, constituting the alleged violations;

*f.* Complaints must cite the provisions of federal or state regulations, grant agreements, or other agreements believed to have been violated, if applicable;

*g.* Complaints must state the relief or remedial action(s) sought;

*h.* Copies of documents supporting or referred to in the complaint must be attached to the complaint; and

*i.* Complaints must be addressed to Complaint Officer, Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

**53.24(3)** A complaint is deemed filed with the department when it has been received by the complaint officer and meets the requirements outlined in 53.24(2). Upon receipt of a complaint, the department will send a copy of the complaint and a letter of acknowledgment and notice to the complainant and any persons or entities cited in the complaint within seven calendar days. The letter of acknowledgment and notice shall contain the filing date and notice of the following opportunities:

*a.* The opportunity for informal resolution of the complaint at any time before a hearing is convened; and

*b.* The opportunity for a party to request a hearing by filing with the complaint officer within seven calendar days of receipt of the acknowledgment of the complaint.

**53.24(4)** Failure to file a written request for a hearing within the time provided constitutes a waiver of the right to a hearing, and a three-member panel shall rule on the complaint based upon the information submitted. If a hearing is requested within seven calendar days of receipt of the acknowledgment of the complaint, the hearing shall be held within 20 calendar days of the filing of the complaint. The party(ies) to the complaint shall have the opportunity to submit written evidence, statements, and documents in a time and manner prescribed by the complaint officer.

**53.24(5)** The complaint officer shall convene a review panel of three agency staff members to review complaints within 20 calendar days of the receipt of the complaint. The review panel may, at its discretion, request oral testimony from the complainant and the parties complained against. Within 30 calendar days of the receipt of the complaint, the review panel shall issue a written decision, including the basis for the decision and, if applicable, remedies to be granted. The decision shall detail the procedures for a review by the director if the complainant is not satisfied with the decision.

**53.24(6)** Party(ies) may appeal the decision by filing an appeal with the complaint officer no later than 10 calendar days from the issuance date of the decision. The complaint officer will forward the complaint file to the director for review. If no appeal of the decision is filed within the time provided, the decision shall become the final agency decision.

**53.24(7)** A complaint may, unless precluded by statute, be informally settled by mutual agreement of the parties at any time before a hearing is convened. The settlement must be effected by a settlement agreement or a statement from the complainant that the complaint has been withdrawn or resolved to the complainant's satisfaction. The complaint officer must acknowledge the informal settlement and notify the parties of the final action. With respect to the specific factual situation which is the subject of controversy, the informal settlement constitutes a waiver by all parties of the formalities to which they are entitled under

the terms of the Iowa administrative procedure Act, Iowa Code chapter 17A, the Act, and the rules and regulations of the Act.

**53.24(8)** Upon receipt of a timely request for a hearing, the complaint officer shall assign the matter to a panel. The panel will give all parties at least seven days' written notice either by personal service or certified mail of the date, time and place of the hearing. The notice may be waived in case of emergency, as determined by the panel, or for administrative expediency upon agreement of the interested parties.

*a.* The notice of hearing shall include:

(1) A statement of the date, time, place, and nature of the hearing;

(2) A brief statement of the issues involved; and

(3) A statement informing all parties of their opportunities at the hearing.

*b.* All parties are granted the following opportunities at hearing:

(1) Opportunity for the complainant to withdraw the request for hearing before the hearing;

(2) Opportunity to reschedule the hearing for good cause, provided the hearing is not held later than 20 days after the filing of the complaint;

(3) Opportunity to be represented by an attorney or other representative of choice at the complainant's expense;

(4) Opportunity to respond and present evidence and bring witnesses to the hearing;

(5) Opportunity to have records or documents relevant to the issues produced by their custodian when such records or documents are kept by or for the state, contractor or its subcontractor in the ordinary course of business and where prior reasonable notice has been given to the complaint officer;

(6) Opportunity to question any witnesses or parties;

(7) The right to an impartial review panel; and

(8) A final written agency decision shall be issued within 60 days of the filing of the complaint.

**53.24(9)** An appeal to the director must be filed within 10 calendar days from the issuance date of the decision and include the date of filing the appeal and the specific grounds upon which the appeal is made. Those provisions upon which an appeal is not requested shall be considered resolved and not subject to further review. Appeals must be addressed to Complaint Officer, Division of Workforce Services, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

Upon receipt of an appeal, the complaint officer shall forward the complaint file to the director. The complaint officer shall give written notice to all parties of the filing of the appeal and set a deadline for submission of all written evidence, statements, and documents. The director shall consider all timely filed appeals, exceptions, statements, and documents at the time the decision is reviewed. With the consent of the director, each party may present oral argument. The director may adopt, modify or reject the review panel's decision or remand the case to the review panel for the taking of such additional evidence and the making of such further findings of fact, decision and order as the director deems necessary.

Upon completing the review of the review panel's decision, the director shall issue and forward to all parties a final written decision no later than 60 days after the filing of the initial complaint.

**53.24(10)** The director's decision is final unless the Secretary of Labor exercises the authority of federal review in accordance with 20 CFR Part 667. Federal level review may be accepted by the Secretary if the complaint meets the requirements of 20 CFR Part 667. Upon exhaustion of the state's grievance and complaint procedure, or when the Secretary has reason to believe that the state is failing to comply with the Act, the state plan, or the region's customer service plan, the Secretary must investigate the allegation or belief and determine within 120 days after receiving the complaint whether such allegation or complaint is true.

**53.24(11)** Any party receiving an adverse decision at the regional level may file an appeal within 10 calendar days to the department's complaint officer. In addition, any complaint filed at the regional level with no decision within 60 days of the date of the filing may be reviewed by the department. The request to review the complaint must be filed with the complaint officer within 15 calendar days from the date on which the decision should have been received. The appeal or request for review must comply with the procedures as prescribed in 53.24(2) for filing a complaint. The parties involved shall be afforded the rights and opportunities for filing a state level complaint.

The complaint officer shall review all complaints filed within seven calendar days. If the subject and facts presented in the complaint are most relevant to regional policy, the complaint officer shall remand the complaint to the coordinating service provider of the appropriate region for resolution.

Failure to file the complaint or grievance in the proper venue does not negate the complainant's responsibility for filing the complaint in the appropriate time frames.

**53.24(12)** A unit or combination of units of general local governments or a rural concentrated employment program grant recipient that requests, but is not granted automatic or temporary and subsequent designation as a local workforce investment area, may appeal to the state workforce development board within 30 days of the nondesignation. If the state workforce development board does not grant designation on appeal, the decision may be appealed to the Secretary of Labor within 30 days of the written notice of denial. The appeal must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210. The appellant must establish that it was not accorded procedural rights under the appeal process described in the state plan or establish that it meets the requirements for designation in the Act. The Secretary shall take into account any comments submitted by the state workforce development board.

**53.24(13)** Training providers have the opportunity to appeal denial of eligibility by a regional workforce investment board or the department, termination of eligibility or other action by a regional workforce investment board or the department, or denial of eligibility as a provider of on-the-job training or customized training by the coordinating service provider. All appeals must be filed with the department within 30 days of receipt of written notice of denial or termination of eligibility. Appellants must follow the procedures for a complaint described in 53.24(2). Appeals shall be handled in the same manner as a complaint. State decisions issued under this subrule may not be appealed to the Secretary of Labor.

**53.24(14)** WIA participants subject to testing for use of controlled substances and WIA participants who are sanctioned after testing positive for the use of controlled substances may appeal to the department using the procedures for a complaint described in 53.24(2). State decisions issued under this subrule may not be appealed to the Secretary of Labor.

**53.24(15)** A workforce development region may appeal nonperformance sanctions to the Secretary of Labor under the following conditions:

*a.* The region has been found in substantial violation of WIA Title I, and has received notice from the governor that either all or part of the local plan will be revoked or that a reorganization will occur; or

*b.* The region has failed to meet regional performance measures for two consecutive years and has received the governor's notice of intent to impose a reorganization plan.

Revocation of the regional plan or reorganization does not become effective until the time for appeal has expired or the Secretary has issued a decision. An appeal must be filed within 30 days after receipt of written notification of plan revocation or imposed reorganization. It must be submitted by certified mail, return receipt requested, to Secretary of Labor, Attention: ASET, U.S. Department of Labor, Washington, DC 20010. A copy of the appeal must be simultaneously provided to the governor. In deciding the appeal, the Secretary may consider comments submitted in response from the governor. The Secretary will notify the governor and appellant in writing of the Secretary's decision within 45 days after receipt of the appeal filed under 53.24(15)*"a"*; and within 30 days after receipt of appeals filed under 53.24(15)*"b."*

[Editorial change: IAC Supplement 5/14/25]

These rules are intended to implement Iowa Code sections 84A.1 to 84A.1B, Iowa Code chapter 96, and the Workforce Investment Act of 1998.

[Filed 4/21/00, Notice 2/9/00—published 5/17/00, effective 6/21/00]

[Editorial change: IAC Supplement 8/23/23]

[Filed ARC 7630C (Notice ARC 7107C, IAB 11/1/23), IAB 2/7/24, effective 3/13/24]

[Editorial change: IAC Supplement 5/14/25]

## CHAPTER 54
## PLACEMENT

[Prior to 9/24/86, see 370—Ch 7]
[Prior to 3/12/97, see 345—Ch 7]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 8]
Rescinded **ARC 9712C**, IAB 11/12/25, effective 12/17/25

## CHAPTER 55
## LABOR-MANAGEMENT COOPERATION PROGRAM

[Prior to 7/17/96, see 261—Ch 10]
[Prior to 3/12/97, see 345—Ch 11]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 9]
Rescinded **ARC 9629C**, IAB 10/15/25, effective 11/19/25

## CHAPTER 56
## YOUTH AFFAIRS

[Prior to 3/12/97, see 345—Ch 12]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 10]
Rescinded **ARC 9713C**, IAB 11/12/25, effective 12/17/25

## CHAPTER 57
## WORK FORCE INVESTMENT PROGRAM

[Prior to 7/17/96, see 261—Ch 18]
[Prior to 3/12/97, see 345—Ch 13]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 11]
Rescinded **ARC 9714C**, IAB 11/12/25, effective 12/17/25

## CHAPTER 58
## IOWA JOB TRAINING PARTNERSHIP PROGRAM

[Prior to 1/14/87, Planning and Programming 630—Chapter 19]
[Prior to 7/17/96, see Iowa Department of Economic Development, 261—Chapter 19]
[Prior to 2/25/98, see Job Service Division[345] Ch 14]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 12]
Rescinded **ARC 9715C**, IAB 11/12/25, effective 12/17/25

## CHAPTER 59
## MENTOR ADVISORY BOARD

[Prior to 7/17/96, see 435—Ch 6]
[Prior to 3/12/97, see 345—Ch 15]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 13]
Rescinded **ARC 9716C**, IAB 11/12/25, effective 12/17/25

## CHAPTER 60
## IOWA WELFARE-TO-WORK PROGRAM

[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 14]
Rescinded **ARC 9630C**, IAB 10/15/25, effective 11/19/25

## CHAPTER 61
## STRATEGIC WORKFORCE DEVELOPMENT FUND

[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 15]
Rescinded **ARC 9717C**, IAB 11/12/25, effective 12/17/25

# CHAPTER 62
# IOWA INDUSTRIAL NEW JOBS TRAINING PROGRAM

[Prior to 1/14/87; Iowa Development Commission[520] Ch 5]
[Prior to 10/18/23, see Economic Development Authority[261] Ch 5]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 16]

Chapter rescission date pursuant to Iowa Code section 17A.7: 10/22/30

**871—62.1(15,260E) Authority.** The authority for rules governing the development of training projects under the Iowa industrial new jobs training Act and the operation of the program is provided in Iowa Code section 260E.7.
[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.2(15,260E) Purpose.** The purpose of the Act is to provide training for employees in new jobs with industries locating or expanding operations in Iowa and an incentive to industries considering locating or expanding operations in Iowa. The goal of the training should be skill development and enhancement for Iowa's workforce. Iowa workforce development is required to coordinate the training programs described in the Act.
[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.3(15,260E) Definitions.**

*"Act"* means Iowa Code chapter 260E.

*"Agreement"* means an agreement between an employer and a community college concerning a project and includes any written agreement, or amendment thereto, whether deemed by the parties to be preliminary or final.

*"Base year"* means, for the purpose of determining incremental property tax available to fund in part the jobs training agreement, the assessment rolls as of January 1 of the year preceding the first written agreement filed with the county assessor where the property is located or such other valuation as may be determined by the appropriate assessor as provided in Iowa Code section 403.19(1)*"c."*

*"Department"* means Iowa workforce development.

*"Expanding industry"* means an industry that will require the addition of new jobs that did not exist in that industry in Iowa prior to the signing of an agreement for training and that exceeds the level of employment in that industry six months prior to the date of the agreement.

*"Formerly existing jobs"* means jobs that were part of the payroll of the industry within the state any of the time during the six months prior to the signing of an agreement for training. Jobs that formerly existed do not qualify for training under the provisions of Iowa Code section 260E.2(15).

*"Industry"* means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes solely retail, health, or professional services. An industry is a business engaged in activities described as eligible in the Act rather than the generic definition encompassing all businesses in the state doing the same activities. An industry is considered to be a single, corporate entity or operating subdivision. An industry that closes or substantially reduces its operation in one area of the state of Iowa and relocates substantially the same operation in another area of the state is not eligible for a project. This definition does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.

*"New industry"* means an industry that has not done business in Iowa or an existing industry implementing a new process and product used or produced for the first time in Iowa, which results in the creation of new jobs not previously available in that industry in the state.

*"New job"* means a job in a new or expanding industry but does not include jobs of recalled workers or replacement jobs or other jobs that formerly existed in the industry in the state of Iowa. A new job is defined in the Act, except that an industry in violation of state or federal labor laws or involved in a lockout or strike in Iowa will not be eligible for a training program under the Act.

*"New jobs training program"* or *"program"* means the project or projects established by a community college for the creation of jobs by providing education and training of workers for new jobs for new or expanding industry in the merged area served by the community college. The proceeds of the certificates, as authorized by the Act, will be used only to fund program services related to training programs made necessary by the creation of new jobs.

[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.4(15,260E) Agreements.**

**62.4(1)** *Notification.* The community college will notify the department of all agreements deemed to be final and ready for project funding by entering data and uploading required documentation identified by the department into the 260E Data System within 30 days of execution by all parties. The corresponding official statement will be uploaded by the community college when it is completed. The notice of final agreement will provide all pertinent training services and financial details in the manner determined by the department. The notice will be signed by the community college officials authorized by the college. All written agreements will also be reported and verified through updates by the college, provided in a time frame specified by the department, in the same manner that the annual report is provided to the department. Except where otherwise prescribed in these rules, the department, in conjunction with the community colleges, will develop a format and timetable for reporting relevant information to the department. Such reporting will include but will not be limited to information and official statements with respect to all final agreements and related certificate sales, information regarding college procedures for training agreement review and training project monitoring, and documentation of identified events of default, remedies and repayment policies.

**62.4(2)** *Additional agreement items.* In addition to the provisions of an agreement described in Iowa Code section 260E.3(1) through 260E.3(5), the agreement will include the following items:

*a.* The length of time each new job category will be provided on-the-job training.

*b.* The completion date of all other training.

*c.* If the supplemental new jobs credit is to be utilized as authorized in Iowa Code section 256.7(14), the agreement must be signed by the business(es), the community college, and the department of revenue for the use of an additional 1.5 percent withholding to educate and train new employees.

**62.4(3)** *Compliance with department of revenue requirements.* When an agreement for training is deemed final and ready for project funding, the community college will notify the department of revenue within 30 days of the date of execution of the agreement. Notification will be in writing on forms and in the manner determined by the department and is considered complete when entries have been saved in the data system.

If, at any time after notification, the estimates are revised, or if changes are made in the agreement that would affect the above reporting requirements, the department of revenue and the department will be notified within 30 days.

**62.4(4)** *Allowable cost.* A community college may be reimbursed from certificate proceeds for reasonable administrative costs and legal fees incurred prior to the date of the preliminary agreement. Training costs incurred prior to the date of the preliminary agreement are not reimbursable.

**62.4(5)** *Cost standards.* The standard vocational preparation guide, as provided in the Dictionary of Occupational Titles for determining classification of jobs and the length of allowable training periods, may be used by a community college in estimating the cost of on-the-job training. Where these standards are not appropriate, reasonable time periods for on-the-job training will be based on the standard vocational preparation guide for similar classifications. Reimbursement of a new employee's wages for on-the-job training will not exceed 50 percent of the new employee's annual gross payroll costs. The maximum project total for on-the-job training will not exceed 50 percent of the total available training proceeds.

**62.4(6)** *Indirect cost rate.* The community colleges may be reimbursed indirect costs at the rate to be determined annually. The indirect cost rate and procedures will be communicated to the community colleges by the department. The rate will be based on function five and nine expenditures of the Iowa area community college uniform accounting system. The indirect cost rate will be applied against the total issuance. Acceptable accounting procedures, as determined by the community college with the department and the state auditor, will be followed in claiming indirect costs.

**62.4(7)** *Equipment.* Equipment required for training will be an allowable provision in a training project as described in Iowa Code chapter 260E. The cost of equipment used in training will be prorated to the project in that proportion chargeable to the training program, and the remainder of the cost of such equipment will be the responsibility of the employer. Proceeds of the certificates will not be used directly or indirectly to finance land, facilities or depreciable property to be owned by the employer or other private person.

[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.5(15,260E) Resolution on incremental property tax.**

**62.5(1)** A copy of the resolution by the board of directors of the community college, as described in Iowa Code section 260E.4, will be forwarded to the county auditor(s) affected by it within the merged area.

**62.5(2)** A community college board of directors anticipating the use of the incremental property tax as a source of funding for an eligible training program is referred to in Iowa Code sections 403.19 and 403.21 and will follow procedures as described therein as provided in Iowa Code section 260E.4.

[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.6(15,260E) New jobs withholding credit.**

**62.6(1)** *Notification of payments and claims for credit.* Withholding credit for payments to community colleges will be claimed by an employer on the semimonthly, monthly, or quarterly deposit forms during the calendar quarter in which payment is made to a community college. No credit may be claimed until the payment has been made to a community college. The community college will notify the department of revenue by making applicable entries in the 260E Data System within 30 days following the end of a calendar quarter of payments covering withholding credits that have been received for the quarter. If a credit is claimed by an employer and payment is not made to the community college, the amount of credit will be considered to be a delinquent withholding liability and will be subject to assessment of tax, penalty, and interest according to the provisions of Iowa Code section 422.16(10).

**62.6(2)** *Notification of termination of credit.* Community colleges will notify in writing the department of revenue and the department within 30 days when it is determined that payments for job training withholding credits will no longer be applied against the costs of a project. At project completion, any excess payments for job training withholding credits received by the community college will be forwarded to the department of revenue.

[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.7(15,260E) Notice of intent to issue certificates.** The notice of intent to issue certificates as provided in Iowa Code section 260E.6(5) will be published by the community college in a legal newspaper in the merged area. The application for an allocation of Iowa industrial new jobs training certificates should be submitted to the department, in the format determined by the department and by an official of the community college or by an attorney or agent of the community college, prior to the issuance of certificates for that portion of the issuance that is tax-exempt. Notice of issuance of certificates should be filed with the department within ten days of the issuance and delivery of certificates.

[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.8(15,260E) Standby property tax levy.** A standby property tax levy may be collected at any time other funds are insufficient as provided in Iowa Code section 260E.6(4). The county auditor will be notified by the community college board of directors on an annual basis to adjust the annual standby tax.

[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.9(15,260E) Reporting.** An annual report will be completed by the community college on or before September 15. The format and content will be determined by the department. The report will include training dollar expenditures and names of the providers of the training conducted, the number of pledged new job employees filled, provided program services under the project, the median wage of employees in the new jobs in the project, and the administrative costs directly attributable to the project.

[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.10(15,260E) Monitoring.**

**62.10(1)** *Monitoring system.* Each community college will establish a monitoring system that includes, at a minimum, a review of the business's compliance with the Act, these rules and the training agreement.

**62.10(2)** *Annual review.* Monitoring will be conducted by the community colleges at least annually.

**62.10(3)** *Documentation.* Each community college will document its monitoring efforts and promptly notify the department, on the forms provided, whenever it identifies an event of default.

[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.11(15,260E) State administration.** The community colleges will submit 1 percent of the gross sale of certificates within 30 days of receipt of proceeds from a sale of certificates to the department to defray administrative costs.

[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.12(15,260E) Coordination with communities.** The community colleges will follow the provisions of Iowa Code section 403.21.

[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

**871—62.13(15,76GA,SF2351) Supplemental 1.5 percent withholding.** For the purposes of determining new jobs training programs established under Iowa Code section 260J.1 eligible to receive a supplemental new jobs credit of 1.5 percent of gross wages from withholding, the following criteria will be met:

**62.13(1)** Only those new jobs training programs established by a 260E final agreement, approved by the community college board of directors after June 30, 1996, and that include a provision for a supplemental new jobs credit from withholding from jobs created under the agreement are eligible for the supplemental credit.

**62.13(2)** The department will make available to the community colleges the applicable laborshed wages at the beginning of each state fiscal year for use in determining supplemental withholding credit eligibility for that fiscal year.

**62.13(3)** For the purposes of determining eligibility for the supplemental credit, starting wages for a new job will be determined on a one-time basis by the community college as follows:

*a.* The employer will agree, as a part of the final agreement, to pay starting wages that are equal to or greater than the laborshed wages.

*b.* Only those individual jobs for which the starting wage is equal to or greater than the laborshed wages are eligible for the supplemental new jobs credit from withholding.

*c.* For purposes of comparing starting wages to the laborshed wages, the community college will reduce the annual gross wages to be paid for the job to an hourly wage based upon a 40-hour workweek.

*d.* Such determination by the community college will be conclusive and the individual job will thereafter be eligible and may be used for the supplemental credit from withholding to fund the supplemental project under the agreement.

*e.* Future annual changes in laborshed wages will not affect the eligibility of those jobs that have been determined by the community college to be eligible at the time of final agreement for a project.

**62.13(4)** The community college may require the employer to supply appropriate payroll records and projections to verify eligibility of the supplemental credit.

This rule is intended to implement the provisions of 1996 Iowa Acts, Senate File 2351, section 8, effective July 1, 1996, and does not affect agreements that do not contain a provision for a supplemental new jobs credit from withholding.

[**ARC 9565C**, IAB 9/17/25, effective 10/22/25]

These rules are intended to implement Iowa Code chapter 260E and Iowa Code chapter 403 as it relates to Iowa Code chapter 260E.

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[1] Effective date (10/14/87) delayed until adjournment of the 1988 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its October 1987 meeting.

# CHAPTER 63
# IOWA JOBS TRAINING PROGRAM

[Prior to 1/14/87 Iowa Development Commission(520), Ch 7]
[Prior to 7/8/92, see 261—Chs 6 and 7]
[Prior to 10/18/23, see Economic Development Authority[261] Ch 7]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 17]

Chapter rescission date pursuant to Iowa Code section 17A.7: 10/22/30

**871—63.1(260F) Authority.** The authority for establishing rules governing the development of training projects under the Iowa jobs training Act is provided in Iowa Code chapter 260F.
[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.2(260F) Purpose.** The purpose of the Act is to foster the growth and competitiveness of Iowa's workforce and industry by ensuring that Iowa's workforce has the skills and expertise to compete with any workforce outside the state of Iowa.
[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.3(260F) Definitions.**

*"Act"* means Iowa Code chapter 260F.

*"Certification"* means the community college and business agree that the information contained in the application is accurate. The certification also gives the department permission to research the history of the business and perform other related activities necessary for the evaluation of the application.

*"Community college consortium"* means two or more businesses located in the same community college district that share a common training need.

*"Department"* or *"Iowa workforce development"* means the department of workforce development created in Iowa Code section 84A.1.

*"Eligible business"* or *"business"* means a business training employees that is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, warehousing or wholesaling products, conducting research and development, or providing services in interstate commerce but excludes solely retail, health, or professional services and that meets the other criteria established by the department. A business engaged in the provision of services must have customers outside of Iowa to be eligible. The business site to receive training must be located in Iowa. "Eligible business" does not include a business whose training costs can be economically funded under Iowa Code chapter 260E, a business that closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operation to another area of the state, or a business that is involved in a strike, lockout, or other labor dispute in Iowa. If a business closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operation to another area of the state, then the business is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

*"Employee"* means a person currently employed by a business who is to be trained. An employee for whom training is planned must hold a current position intended by the employer to exist on an ongoing basis with no planned termination date. Training is available only to an employee who is hired by the business, who is currently employed by the business, and for whom the business pays withholding tax. However, "employee" does not include a person with executive responsibilities, a replacement worker who is hired as a result of a strike, lockout, or other labor dispute in Iowa, or an employee hired as a temporary worker. "Employee" does include a person with executive responsibilities if such person works in both an executive- and employee-based capacity for a small business with a total labor force of fewer than 50 persons.

*"Program services"* includes but is not limited to the following:

1. Training of employees;
2. Adult basic education and job-related instruction;
3. Career and technical skill assessment services and testing;
4. Training facilities, equipment, materials, and supplies;

5. Administrative expenses for the jobs training program;

6. Subcontracted services with institutions governed by the state board of regents, private colleges or universities, or other federal, state, or local agencies;

7. Contracted or professional services;

8. Training-related travel and meals.

*"Project"* means a training arrangement that is the subject of an agreement entered into between a community college and an eligible business to provide program services.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.4(260F) Program funding.**

**63.4(1)** Program funds consist of any moneys allocated by the department for the purpose of this program, all repayments of loans or other awards or recaptures of awards, and earned interest, including interest earned on program funds held by the community colleges.

**63.4(2)** A community college 260F account is established in the department. The allocation of funds in this account to the community colleges will be determined using the distribution formula established in Iowa Code section 260C.18C.

**63.4(3)** Any unexpended or uncommitted funds remaining in the community college 260F account on May 1 of the fiscal year will revert to a general account to be available on a first-come, first-served basis, based on the date an application is received by the department.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.5(260F) Funding for projects that include one business.**

**63.5(1)** The maximum award that may be approved for each project at a business site is $50,000 in a fiscal year.

**63.5(2)** A business site may be approved for multiple projects, but the total of the awards for two or more projects will not exceed $100,000 within a three-year period. The three-year period will begin with the department approval date of the first project approved within the three-year period.

**63.5(3)** Awards will be made in the form of forgivable loans.

**63.5(4)** Financial assistance awarded to a project must be based on the actual cost of allowable services as identified in rule 871—63.9(260F).

**63.5(5)** Funds requested must be commensurate with training needs. Program funds shall not be used to provide cash flow to a business.

**63.5(6)** Community colleges issue the proceeds of an award to a business on a reimbursement basis or directly pay for training expenses from the college-administered separate program account.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.6(260F) Funding for projects that include multiple businesses.**

**63.6(1)** A community college consortium of two or more businesses as defined in rule 871—63.3(260F) is eligible for a maximum award of $100,000 per training project.

**63.6(2)** Participation in a community college consortium does not affect a business site's financial eligibility for individual project assistance.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.7** and **63.8** Reserved.

**871—63.9(260F) Use of program funds.**

**63.9(1)** The following costs associated with the administration of any project are eligible for program funding:

*a.* Community college administrative costs associated with the development and operation of a project, not to exceed 15 percent of the project cost.

*b.* Legal fees.

**63.9(2)** The costs associated with the provision of program services for any project are eligible for program funding.

**63.9(3)** Reimbursement of employee wages while the employee is in training is not allowed.

**63.9(4)** Production equipment, when used for training, may be an allowable cost. The cost of equipment used in training but subsequently used in production will be prorated, as identified in rule 871—64.12(15,76GA,ch1180), with the percentage of "used in production" cost paid by the business.

**63.9(5)** A community college may use funds awarded to a project to cover reasonable administrative costs and legal fees for that project.

**63.9(6)** A community college may not use funds from one project's program award to cover any costs incurred by another project.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.10(260F) Use of 260F earned interest.**

**63.10(1)** The community college is authorized to use interest earned on program funds to pay administrative costs incurred as a result of administering the program. Administrative costs include all costs incurred from the time the application process commences minus any costs covered by application fees paid by applicants.

**63.10(2)** Earned interest that has not been spent by the end of any state fiscal year will be refunded to the department within ten days of the end of the state fiscal year. The community college may designate and carry forward specified interest funds, as permitted by these rules, for identified payments that will occur during the next state fiscal year.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.11** Reserved.

**871—63.12(260F) Separate account.** The community college will establish a separate program account to document all program transactions and from which repayments for loans will be made to the department.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.13** to **63.17** Reserved.

**871—63.18(260F) Agreement of intent.**

**63.18(1)** An agreement of intent allows training to start on a specific date.

**63.18(2)** A community college and a business sponsor may but are not required to enter into a letter of intent.

**63.18(3)** A community college and a business that enter into an agreement of intent will use Agreement of Intent, Form 260F-2.

**63.18(4)** An agreement of intent will remain in effect for a maximum of one calendar year from the date of the letter. An agreement of intent for one project does not establish the commencement date for subsequent projects.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.19(260F) Project commencement date.** The earliest date on which program funds may be used to pay training expenses incurred by the project is the effective date of the agreement of intent or the date the application is received by the department, whichever is first.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.20(260F) Application process.**

**63.20(1)** An application for training assistance must be submitted to the department by a community college on behalf of a business. An application will not be accepted by the department if submitted directly by a business.

**63.20(2)** Community colleges use Application for Assistance, available in the 260F data system, to apply for 260F business assistance.

**63.20(3)** Required contents of the application will be described in the application package.

**63.20(4)** Applications must be submitted via the 260F data system to the department.

**63.20(5)** The department will score applications according to the criteria specified in rule 871—63.21(260F).

**63.20(6)** To be funded, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified elsewhere in these rules.

**63.20(7)** The department may approve, reject, or defer an application.

**63.20(8)** The department reserves the right to require additional information from the business.

**63.20(9)** Application approval is contingent on the availability of funds. The department will reject or defer an application if funds are not available.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.21(260F) Application scoring criteria.**

**63.21(1)** The criteria used for scoring 260F business or consortium applications and the points for each criteria are as follows:

*a.* The business has a plan for future potential growth and product diversification. 10 points.

*b.* The majority of the business's employees are permanent full-time. 10 points.

*c.* Average wages for employees are at or above the laborshed wages for the business's location. 10 points.

*d.* The business provides a cash match of 25 percent or greater. 10 points.

*e.* The application explains why the business needs the training identified in the training plan. 10 points.

*f.* The application explains how the training will contribute to the continued existence of the business. 10 points.

*g.* The application identifies which skills the employees will acquire from the training and how the skills will increase the employees' marketability. 5 points.

*h.* The average cost of training per employee is comparable to the cost of training at Iowa community colleges or universities. 5 points.

*i.* The application documents that all considerations, including funding required to begin the training project, have been addressed. 5 points.

*j.* The employer provides health insurance and at least one other employee benefit. 5 points.

*k.* Employee skills, knowledge, and abilities will be improved as a result of this training. 10 points.

*l.* The business's competitive stance will be improved as a result of this training. 10 points.

To be funded, applications must receive a minimum score of 65 out of 100 points and meet all other applicable eligibility criteria.

**63.21(2)** The criteria used for scoring a college business consortium and the points for each criterion are as follows:

*a.* The training will have a positive impact on the skills, knowledge and abilities of trainees. 29 points.

*b.* The training will help improve the competitive stance of participating businesses or the industry for which training is being provided. 28 points.

*c.* The training will result in economic benefits for the state. 28 points.

*d.* The average of the average wage rates for the businesses participating in the project is above the state average wage rate, which will be computed using the current county average wage rates. 10 points.

*e.* The project cost of training per employee does not exceed comparable costs for training at a state of Iowa community college or university. 5 points.

To be funded, applications must receive a minimum score of 65 out of 100 points and meet all other applicable eligibility criteria.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.22(260F) Training agreement.**

**63.22(1)** A community college will enter into a training agreement with the business(es), lead business, or lead organization within 90 days of written notice of application approval from the department, using Training Agreement, Form 260F-4, for 260F business-driven projects.

**63.22(2)** A business will not modify any provision of the agreement without the written approval of the community college.

**63.22(3)** The community college, with the written consent of the business, has the authority to modify all provisions of the agreement except for 260F business, business network and consortium project modifications that result in a reduction of the number of employees to be trained or that significantly change the training program.

**63.22(4)** The community college and the business are authorized to change the ending date of training, training provider, or other minor modifications to the training program. All modifications must be uploaded to the 260F data system prior to the ending date of training. If the modification authorizes a change of the ending date of training, the modification must be uploaded to the 260F data system prior to the original ending date of training. For example, if a training agreement specifies an ending date of training of December 31, 2018, and a community college and business agree to extend the ending date of training to December 31, 2019, then the modification must be uploaded prior to December 31, 2018.

**63.22(5)** Modifications of 260F business and consortium projects that result in a reduction of the number of employees to be trained or change the training program content must be approved by the department, community college, and business.

**63.22(6)** The agreement will not be modified in any way that would result in a violation of Iowa Code chapter 260F.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.23(260F) Special requirements for community college consortium projects.**

**63.23(1)** The community college will submit the Consortium Application for Assistance, available on the 260F data system, to the department for project approval.

**63.23(2)** The community college will enter into a training agreement with the consortium within 90 days of written notice of application approval from the department, using Consortium Training Agreement, Form 260F-4A.

**63.23(3)** All default provisions specified in rule 871—63.30(260F) apply to consortium projects.

**63.23(4)** In the event of a default, a financial penalty may be assigned by the department to the consortium business or businesses identified by the community college as being responsible for the default.

**63.23(5)** Each business that participates in the consortium will complete a Final Performance Report, Form 260F-5, at the completion of training as a condition of the loan being forgiven.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.24(260F) Events of default.**

**63.24(1)** A business that fails to complete the training project within the agreed period of time as specified in the training agreement will be required to repay 20 percent of total project funds expended by the community college and the business.

**63.24(2)** A business that fails to train the agreed number of employees as specified in the training agreement will be required to repay a proportionate amount of total project funds expended by the community college and the business. The proportion will be based on the number of employees who have not been trained compared to the number of employees who have been trained.

**63.24(3)** If both events in subrules 63.24(1) and 63.24(2) occur, both penalties apply.

**63.24(4)** A business that fails to comply with any requirements contained in the training agreement will be sent written notice by the community college that specifies the issue(s) of noncompliance, and the business will be allowed 20 days from the date notice is sent to effect a cure. If noncompliance is of such a nature that a cure cannot be reasonably accomplished within 20 days, the community college has the discretion to extend the period of cure to a maximum of 60 days.

**63.24(5)** A business ceases or announces the cessation of operations at the project site prior to completion of the training program.

**63.24(6)** A business directly or indirectly makes any false or misleading representations or warranties in the program application or training agreement, reports, or any other documents that are provided to the community college or the department.

**63.24(7)** A business acts in any manner contrary to, or fails to act in accordance with, any provision of the training contract.

**63.24(8)** A business takes corporate action to effect any of the preceding conditions of default.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.25(260F) Options and procedures on default.**

**63.25(1)** The community college will notify the department whenever the community college determines that an event of default has occurred or is likely to occur.

**63.25(2)** The community college will document its efforts to reconcile the condition(s) responsible for the default and will provide the department with copies of all related correspondence and documents of the community college and the business.

**63.25(3)** The community college will notify the department when it has determined that an event of default cannot be cured.

**63.25(4)** When notice of failure to cure the default is received from the community college, the department will communicate with the business, in writing, in an attempt to resolve the default.

**63.25(5)** When the department's efforts to reconcile are successful, the department will notify the community college, in writing, to continue project operations. Continuation of project operations may be subject to new conditions imposed by the department as part of the reconciliation.

**63.25(6)** When the department's efforts to reconcile are unsuccessful and upon the department's request, the community college will assign the agreement to the department for appropriate proceedings at which time the department will institute collection procedures or notify the attorney general to initiate appropriate legal actions.

**63.25(7)** When a community college assigns an agreement to the department for a project declared to be in default, the community college will return all remaining 260F funds to the department within 45 days of assignment.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.26(260F) Remedies upon default.**

**63.26(1)** When a community college determines that a business is in default, and the default has not been cured within the time period stated in the contract, the community college is authorized to withhold training funds and payments to the business without notice to the business.

**63.26(2)** The attorney general may take whatever action at law or in equity as necessary and desirable to satisfy the default.

**63.26(3)** No demand of amount due, from the community college to the business written or otherwise, is required to establish the business's financial liability.

**63.26(4)** No remedy conferred upon or reserved to the community college, the department, or the attorney general by the Act, these rules, or the training agreement is intended to be exclusive of any other current or future remedies existing in law, in equity, or by statute.

**63.26(5)** Any delay or omission by the community college, the department, or the attorney general to exercise any right or power prescribed by the Act, these rules, or the training agreement does not relinquish or diminish the department to act and does not constitute a waiver of default status. Any such right or power may be exercised at any time required and as often as may be deemed expedient.

**63.26(6)** Unless required by these rules, neither the community college, department, nor attorney general is required to provide written or other notice to the business regarding any circumstance related to and including a declaration of an event of default.

**63.26(7)** In the event any requirement of the Act, these rules, or the training agreement, relating to a default, should be breached by either party and then waived by the other party, such waiver will be limited to the specific breach being waived and will have no bearing on any subsequent breach.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.27(260F) Return of unused funds.** The community college will return all unused funds to the department within 45 days of project completion or within 45 days after being notified by the department that a project is in default.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.28(260F) Open records.** Information submitted to the department is subject to Iowa Code chapter 22, the public records law. Applications for training funds submitted to the department are available for

public examination. If a business provides information that the business believes contains trade secrets recognized and protected as such by law, or the release of which would give an advantage to competitors and serves no public purpose or which meets other provisions for confidential treatment as authorized in Iowa Code section 22.7, and establishes that such information is subject to confidential treatment under Iowa Code section 22.7 or as otherwise provided for by law, then such information shall be kept confidential. Rule 261—195.5(22,84A) describes how a person may request a record to be treated as confidential and withheld from public examination. Businesses requesting confidential treatment of certain information submitted to the department will follow the procedures described in rule 871—3.5(22,84A). The department will process such requests as outlined in rule 871—3.5(22,84A).
[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

**871—63.29(260F) Required forms.** The community college is required to complete and upload the following forms, as applicable, within the 260F data system:

1. General Application for Assistance, Form 260F-1;
2. Consortium Application for Assistance, Form 260F-1A;
3. Agreement of Intent, Form 260F-2;
4. Request for Release of Funds, Form 260F-3;
5. Training Agreement, Form 260F-4;
6. Consortium Training Agreement, Form 260F-4A;
7. Performance Report, Form 260F-5;
8. Notice of Possible Default, Form 260F-6;
9. Declaration of Default, Form 260F-7;
10. College and Business Certification, 260F-8;
11. Environmental Quality Form, to include a Solid Waste Plan and Hazardous Waste Plan (if applicable), Form 260F-9.

[**ARC 9566C**, IAB 9/17/25, effective 10/22/25]

These rules are intended to implement Iowa Code chapter 260F.

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# CHAPTER 64
# WORKFORCE DEVELOPMENT FUND

[Prior to 9/6/00, see 261—Ch 75]
[Prior to 10/18/23, see Economic Development Authority[261] Ch 8]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 18]

Chapter rescission date pursuant to Iowa Code section 17A.7: 12/17/30

**871—64.1(15,76GA,ch1180) Purpose.** The purpose of the workforce development fund is to provide revenue for programs that address the workforce development needs of the state. Moneys are appropriated to the fund from the workforce development fund account and are to be used for projects under Iowa Code chapter 260F.
[**ARC 9718C**, IAB 11/12/25, effective 12/17/25]

**871—64.2(15,76GA,ch1180) Definitions.**

*"Agreement"* means an informal agreement between the department and a grantee that authorizes expenditure of a workforce development fund award.

*"Contract"* means a formal agreement executed by the department and a grantee for purposes of operating a program under the workforce development fund.

*"Department"* or *"IWD"* means Iowa workforce development.

*"Director"* means the director of Iowa workforce development.

*"Grantee"* means any entity receiving a workforce development fund award from Iowa workforce development.
[**ARC 9718C**, IAB 11/12/25, effective 12/17/25]

**871—64.3(15,76GA,ch1180) Workforce development fund account.** A workforce development fund account is established in the office of the treasurer of state under control of the department. Upon payment in full of a certificate of participation or other obligation issued to fund a job training program under Iowa Code chapter 260E, including a certificate of participation repaid in whole or in part by the supplemental new jobs credit from withholding under Iowa Code section 260J.1, the community college providing the job training program will notify the department of the amount paid by the employer or business to the community college to retire the certificate during the last 12 months of withholding collections. The department will notify the department of revenue of that amount. The department of revenue will then credit to the workforce development fund account, established in Iowa Code section 84G.3, 25 percent of that amount each quarter for a period of ten years. If the amount of withholding from the business or employer is insufficient, the department will prorate the quarterly amount credited to the workforce development fund account. The maximum amount from all employers that will be transferred to the workforce development fund account in any year is $7,750,000. The legislature will make an annual appropriation from the workforce development fund account to the workforce development fund.
[**ARC 9718C**, IAB 11/12/25, effective 12/17/25]

**871—64.4(15,76GA,ch1180) Workforce development fund allocation.** The director will submit a copy of the proposed allocation of funds from the workforce development fund to be made for the next fiscal year for the programs and purposes intended to the chairpersons of the joint economic development appropriations subcommittee of the general assembly. Notwithstanding Iowa Code section 8.39, the plan may provide for increased or decreased allocations if the demand for a program indicates that the need is greater or lesser than the allocation for that program. Workforce development funds are received quarterly. The sequence in which the funds are allocated to the various programs under the workforce development fund will be determined by the department based upon the demand for the respective programs.
[**ARC 9718C**, IAB 11/12/25, effective 12/17/25]

**871—64.5(15,76GA,ch1180) Workforce development fund reporting.** The director will provide annual reports to the legislative services agency on the status of the funds. Unobligated and unencumbered moneys

remaining in the workforce development fund or any of its accounts on June 30 of each year will be considered part of the fund for purposes of the next year's allocation.

[**ARC 9718C**, IAB 11/12/25, effective 12/17/25]

These rules are intended to implement Iowa Code chapter 260F.

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# CHAPTER 65
# APPRENTICESHIP TRAINING PROGRAM

[Prior to 10/18/23, see Economic Development Authority[261] Ch 12]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 19]

Chapter rescission date pursuant to Iowa Code section 17A.7: 12/3/30

**871—65.1(84E) Authority.** The authority for adopting rules establishing an apprenticeship training program is provided in Iowa Code section 84A.5(5)*"l"* and chapter 84E.
[**ARC 9655C**, IAB 10/29/25, effective 12/3/25]

**871—65.2(84E) Purpose.** The purpose of the apprenticeship training program is to assist eligible apprenticeship programs by providing financial assistance in the form of training grants.
[**ARC 9655C**, IAB 10/29/25, effective 12/3/25]

**871—65.3(84E) Definitions.** The following definitions apply to this chapter. Additional definitions can be found in Iowa Code section 84E.2.

*"Apprentice"* means a person who is at least 16 years of age, except where a higher minimum age is required by law; who is employed in an apprenticeable occupation; and who is registered in Iowa with the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship.

*"Apprenticeable occupation"* means an occupation approved for apprenticeship by the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship.

*"Apprenticeship program"* means a program registered with the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship that includes terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including the requirement for a written apprenticeship agreement.

*"Apprenticeship sponsor"* means an entity operating an apprenticeship program or an entity in whose name an apprenticeship program is being operated that is registered with or approved by the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship.

*"Department"* means the department of workforce development created in Iowa Code section 84A.1 (Iowa workforce development).

*"Program"* means the apprenticeship training program established pursuant to this chapter.

*"Total instructional hours"* means the total instructional hours reported by an apprenticeship sponsor or lead apprenticeship sponsor. "Total instructional hours" does not mean the minimum federal standard for instructional hours.

*"Training year"* means the most recent calendar year.
[**ARC 9655C**, IAB 10/29/25, effective 12/3/25]

**871—65.4(84E) Annual appropriations—amount of assistance available—standard contract—use of funds.**

**65.4(1)** The department will provide financial assistance under the program from moneys appropriated for purposes of the program pursuant to Iowa Code section 84G.3.

**65.4(2)** The department will disburse funds to an apprenticeship sponsor or lead apprenticeship sponsor only after approval of a completed application and execution of a contract between the apprenticeship sponsor or lead sponsor and the department. The department shall have sole discretion in determining whether an applicant has provided all necessary information as required under this chapter. The department will prepare a standard contract for the program to be executed by each eligible applicant. Each executed contract will provide for an amount of financial assistance in the form of a training grant as determined by Iowa Code section 84E.4(2). All changes or amendments to the standard contract shall be at the department's sole discretion. All such changes shall be consistent with the requirements of Iowa Code chapter 84E and of this chapter. The department will notify apprenticeship sponsors and lead apprenticeship sponsors by the end of a calendar year of any standard contract changes for the upcoming application period.

**65.4(3)** Financial assistance received by an apprenticeship sponsor or lead apprenticeship sponsor under this rule shall be used only for the cost of conducting and maintaining an apprenticeship program. The department may require an apprenticeship sponsor or lead apprenticeship sponsor to provide any information reasonably necessary to verify the use of program funds.
[**ARC 9655C**, IAB 10/29/25, effective 12/3/25]

**871—65.5(84E) Eligibility for assistance.** An eligible apprenticeship sponsor or lead apprenticeship sponsor may apply to the department for assistance under the program. To be eligible, an applicant must meet all of the following requirements:

**65.5(1)** The applicant is an apprenticeship sponsor, or a lead apprenticeship sponsor, that conducts an apprenticeship program that is registered with the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship for apprentices who will be employed at worksites in Iowa.

**65.5(2)** The applicant conducts an apprenticeship program that includes a minimum of 100 contact hours per apprentice for each training year of the apprenticeship program.

**65.5(3)** The applicant provides all of the following information to the department:

*a.* The federal apprentice registration number of each apprentice in the apprenticeship program.

*b.* The address and a description of the physical location where in-person training is conducted.

*c.* A certification of the apprenticeship sponsor's training standards as most recently approved by the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship, or, in the case of a lead apprenticeship sponsor, a representative sample of participating members' training standards.

*d.* A certification of the apprenticeship sponsor's compliance review or quality assessment as most recently conducted by the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship unless the apprenticeship sponsor has not been subjected to a compliance review or quality assessment. In the case of a lead apprenticeship sponsor, a sampling of compliance reviews or quality assessments from participating members will be sufficient.

*e.* Any other information the department reasonably determines is necessary.

**65.5(4)** The applicant shall apply on or before February 1 of each year in which funding is available. The application submitted by the applicant should reflect program information from the prior training year. Because all applications to the program must be received in order to determine the amount of financial assistance available pursuant to rule 871—65.4(84E), the department will not accept applications on a continuous basis.

**65.5(5)** An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 84F is ineligible for financial assistance under this chapter during the same fiscal year.
[**ARC 9655C**, IAB 10/29/25, effective 12/3/25]

**871—65.6(84E) Application submittal and review process.**

**65.6(1)** The department will develop a standardized application and make the application available to applicants. To apply for assistance under the program, an applicant shall submit an application to the department as instructed by the Notice of Funding Opportunity.

**65.6(2)** The director shall have final funding authority on applications for financial assistance under this program. Applications will be reviewed and processed for eligibility by the staff of the department. The director will approve, defer or deny applications consistent with the requirements of this chapter.
[**ARC 9655C**, IAB 10/29/25, effective 12/3/25]

**871—65.7(84E) Notice and reporting.**

**65.7(1)** *Notice of award.* Program applicants will be notified in writing of the funding decision, including any conditions and terms of the approval as may be required under the program.

**65.7(2)** *Reporting.* An applicant receiving assistance under the program shall submit any information reasonably requested by the department in sufficient detail to permit the department to prepare any reports required by the department, the general assembly or the governor's office.
[**ARC 9655C**, IAB 10/29/25, effective 12/3/25]

These rules are intended to implement Iowa Code chapter 84E.

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# CHAPTER 66
# FUTURE READY IOWA REGISTERED APPRENTICESHIP DEVELOPMENT FUND

[Prior to 10/18/23, see Economic Development Authority[261] Ch 13]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 20]

Chapter rescission date pursuant to Iowa Code section 17A.7: 12/3/30

**871—66.1(84F) Purpose.** Pursuant to Iowa Code sections 84A.5 and 84F.1, the department is directed to establish a future ready Iowa registered apprenticeship development fund for the purpose of providing financial assistance to incentivize small and medium-sized apprenticeship sponsors to establish new or additional eligible apprenticeable occupations in the apprenticeship sponsor's apprenticeship program in order to support the growth of apprenticeship programs and expand high-quality work-based learning experiences in high-demand fields and careers for persons who are employed in eligible apprenticeable occupations in Iowa.

[**ARC 9656C**, IAB 10/29/25, effective 12/3/25]

**871—66.2(84F) Definitions.** For purposes of this chapter, unless the context otherwise requires, the following definitions apply. More definitions can be found in Iowa Code section 84F.1.

*"Agreement"* means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

*"Director"* means the director of the department of workforce development.

[**ARC 9656C**, IAB 10/29/25, effective 12/3/25]

**871—66.3(84F) Program description.**

**66.3(1)** *Amount, form, and timing of assistance.*

*a.* The program provides financial assistance in the form of reimbursement grants to support the costs associated with establishing a registered apprenticeship program or adding additional apprenticeable occupations to an applicant's registered apprenticeship program.

*b.* The maximum grant per applicant per year shall not exceed 50 percent of the apprenticeable occupation budget. The maximum amount awarded to an applicant for any one application per fiscal year shall not exceed $25,000. The aggregate maximum amount that may be awarded to any one applicant per fiscal year for an aggregate number of applications shall not exceed $50,000.

*c.* The applicant will apply for grant funding based on activities during the calendar year prior to the application period.

**66.3(2)** *Application.*

*a. Forms.* All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the department's Notice of Funding Opportunity.

*b. Application period.* Each fiscal year during which funding is available, applications for financial assistance will only be accepted between January 1 and February 1 of each calendar year following the start of the fiscal year. The department may adjust these dates under extenuating circumstances and will notify affected parties. The department may add a funding window if available funds are not exhausted during the initial submission window and will publish such application dates on the department's website.

**66.3(3)** *Funding.* If the amount of funding requested by eligible applicants exceeds the amount of funding available to the department in any given fiscal year, department staff will make recommendations to the director as to allocation of available funding. The department may deny applications for incompleteness or because of insufficient funds.

[**ARC 9656C**, IAB 10/29/25, effective 12/3/25]

**871—66.4(84F) Program eligibility, application scoring, and awards.**

**66.4(1)** *Program eligibility.*

*a.* To be considered for an award under this program, an apprenticeship program sponsor must meet the following eligibility requirements:

(1) The apprenticeship sponsor established a new eligible apprenticeable occupation or added an eligible apprenticeable occupation to the apprenticeship sponsor's existing apprenticeship program in the calendar year prior to the application period.

(2) Additional requirements as set out in Iowa Code section 84F.1(3)*"a"*(1) and *"a"*(2).

*b.* An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 84E or section 84F.2 is ineligible for financial assistance under this chapter during the same fiscal year.

**66.4(2)** *Application scoring criteria.* Applications for financial assistance under the program shall be reviewed and scored as described below. To be considered eligible for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules. If an applicant does not meet all eligibility requirements, the application will not be scored.

*a. Budget and costs.* The extent to which the applicant's budget and estimated or real program costs are based on industry standards for the eligible occupation. (maximum 30 points)

*b. Application of financial assistance.* The applicant has provided specific details regarding the use of funding and how it will be applied. (maximum 30 points)

*c. Local support.* The applicant has provided documentation of local support from area partners, such as schools, local government entities, and other employers, that may benefit from the apprenticeship program. (maximum 10 points)

*d. Additional funding.* The department will take into consideration sources of funding for establishing an apprenticeable occupation. Scores will be based on whether the source of funding is public or private, whether the funding is repayable, and the proportion of internal funding to funding from other sources. Higher scores will be awarded if the source of funding is a private entity, if the funding is repayable, and if the amount of internal funding is more than 50 percent of funding needed to establish the apprenticeable occupation. (maximum 10 points)

*e. Certification of worker safety.* The applicant has not violated state or federal statutes, rules or regulations, including environmental and worker safety regulations, or if such violations have occurred, the violations have been addressed and mitigated. (maximum 10 points)

*f. Certification of employment at an Iowa work site.* The applicant has certified that the apprentices identified by their U.S. Department of Labor identification numbers and represented in the application are registered with the applying sponsor or lead sponsor's registered apprenticeship program and that each apprentice listed worked some time in Iowa during the prior calendar year. (maximum 10 points)

**66.4(3)** *Financial assistance awards.* The director will make final funding decisions after considering the recommendations of staff. Successful applicants will be notified in writing of an award of financial assistance, including the conditions and terms of approval.

*a. Disbursement of funds.* The department will disburse funds to a successful applicant only after approval of a completed application and execution of an agreement between the applicant and the department pursuant to this chapter. Prior to disbursement of funds, the applicant must provide the department with confirmation of expenses detailed in the applicant's budget and the department must confirm that all terms for financial assistance have been met.

*b. Form of financial assistance.* The department will provide financial assistance in the form of a grant to the applicant. The amount of the grant and any other terms shall be included in the agreement required pursuant to this chapter.

*c. Use of funds.* An applicant shall use funds only for reimbursement of the costs directly related to the project. The department may require documentation or other information establishing the actual costs incurred for a project. Failure to use the funds for reimbursement of the costs directly related to a project shall be grounds for default under the agreement required pursuant to this chapter.

[**ARC 9656C**, IAB 10/29/25, effective 12/3/25]

**871—66.5(84F) Agreement required.**

**66.5(1)** Each applicant that is approved for financial assistance under the program shall enter into an agreement with the department for the provision of such financial assistance. The agreement will establish the terms on which the financial assistance is to be provided and may include any other terms reasonably necessary for the efficient administration of the program.

**66.5(2)** The department and the applicant may amend the agreement at any time upon the mutual agreement of both the department and the applicant.

**66.5(3)** The agreement may require an applicant that has been approved for financial assistance under the program to submit information reasonably required by the department to make reports to the governor's office or the general assembly.

[**ARC 9656C**, IAB 10/29/25, effective 12/3/25]

These rules are intended to implement Iowa Code chapter 84F.

[Filed ARC 4110C (Notice ARC 3897C, IAB 7/18/18), IAB 11/7/18, effective 12/12/18]
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[Editorial change: IAC Supplement 5/14/25]
[Filed ARC 9656C (Notice ARC 9529C, IAB 9/3/25), IAB 10/29/25, effective 12/3/25]

# CHAPTER 67
# FUTURE READY IOWA EXPANDED REGISTERED APPRENTICESHIP OPPORTUNITIES PROGRAM

[Prior to 10/18/23, see Economic Development Authority[261] Ch 14]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 12/3/30

**871—67.1(84F) Purpose.** Pursuant to Iowa Code sections 84A.5(5)*"n"* and 84F.2, the department is directed to administer a future ready Iowa expanded registered apprenticeship opportunities program. The purpose of the program is to provide financial assistance to encourage apprenticeship sponsors of apprenticeship programs with 20 or fewer apprentices to maintain apprenticeship programs in high-demand occupations.
[**ARC 9657C**, IAB 10/29/25, effective 12/3/25]

**871—67.2(84F) Definitions.** For purposes of this chapter, unless the context otherwise requires, the following definitions apply. Additional definitions can be found in Iowa Code section 84F.2.

*"Agreement"* means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

*"Director"* means the director of the department of workforce development.
[**ARC 9657C**, IAB 10/29/25, effective 12/3/25]

**871—67.3(84F) Program description.**

**67.3(1)** *Amount, form, and timing of assistance.*

*a.* Financial assistance received by an apprenticeship sponsor under this chapter shall be used only for the cost of conducting and maintaining an apprenticeship program.

*b.* Applicants are eligible to apply for grant awards annually based on the number of apprentices in an eligible apprenticeable occupation who are active in their program or who have completed a registered apprenticeship program in the calendar year prior to the applicant window. Applicants will receive $1,000 per active or completed apprentice in their program, up to $20,000.

**67.3(2)** *Application.*

*a. Forms.* All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the department's Notice of Funding Opportunity.

*b. Application requirements.* An apprenticeship sponsor seeking financial assistance under these rules shall provide the following information to the department:

(1) The address and federal apprentice registration number of each apprentice who was actively training in the apprenticeship program as of December 31 of the year prior to submitting the application or completed training during the calendar year prior to submitting the application.

(2) The address and a description of the physical location where in-person training is conducted.

(3) A certification of the apprenticeship sponsor's training standards as most recently approved by the United States Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship.

(4) A certification of the apprenticeship sponsor's compliance review or quality assessment as most recently conducted by the United States Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship unless the apprenticeship sponsor has not been subjected to a compliance review or quality assessment.

(5) A program budget including how financial assistance awarded under the program will be used.

(6) Any other information the department reasonably requires to determine eligibility and to make award determinations.

*c. Application period.* Each fiscal year during which funding is available, applications for financial assistance will only be accepted between January 1 and February 1 of each calendar year following the start of the fiscal year. The department may adjust these dates under extenuating circumstances and will notify affected parties. The department may add a funding window if available funds are not exhausted during the initial submission window and will publish such application dates on the department's website.

**67.3(3)** *Application review.* If the amount of funding requested by eligible applicants exceeds the amount of funding available to the department in any given fiscal year, department staff will make recommendations to the director as to allocation of available funding based on the scoring criteria described in subrule 67.4(2). The department may deny applications for incompleteness or because of insufficient funds.

[**ARC 9657C**, IAB 10/29/25, effective 12/3/25]

**871—67.4(84F) Program eligibility, application scoring, and awards.**

**67.4(1)** *Program eligibility.*

*a.* To be considered for an award under this program, an apprenticeship program sponsor must meet the following eligibility requirements:

(1) The apprenticeship sponsor has an apprenticeship program with at least one eligible apprenticeable occupation.

(2) Additional requirements as set out in Iowa Code section 84F.1(3)*"a"*(1) and *"a"*(2).

*b.* An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 84E or section 84F.1 is ineligible for financial assistance under these rules during the same fiscal year.

*c.* An apprenticeship sponsor who trains through a lead apprenticeship sponsor that qualifies for financial assistance under Iowa Code chapter 84E is ineligible to receive financial assistance under these rules.

**67.4(2)** *Application scoring criteria.* Applications for financial assistance under the program shall be reviewed and scored as described below. To be considered eligible for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules. If an applicant does not meet all eligibility requirements, the application will not be scored.

*a. Budget and costs.* The extent to which the applicant's budget and estimated or real program costs are based on industry standards for the eligible occupation. (maximum 30 points)

*b. Application of financial assistance.* The applicant has provided specific details regarding the use of funding and how it will be applied. (maximum 30 points)

*c. Local support.* The applicant has provided documentation of local support from area partners, such as schools, local government entities, and other employers, that may benefit from the apprenticeship program. (maximum 10 points)

*d. Additional funding.* The department will take into consideration sources of funding for establishing an apprenticeable occupation. Scores will be based on whether the source of funding is public or private, whether the funding is repayable, and the proportion of internal funding to funding from other sources. Higher scores will be awarded if the source of funding is a private entity, if the funding is repayable, and if the amount of internal funding is more than 50 percent of funding needed to establish the apprenticeable occupation. (maximum 10 points)

*e. Certification of worker safety.* The applicant has not violated state or federal statutes, rules or regulations, including environmental and worker safety regulations, or if such violations have occurred, the violations have been addressed and mitigated. (maximum 10 points)

*f. Certification of employment at an Iowa work site.* The applicant has certified that the apprentices identified by their U.S. Department of Labor identification numbers and represented in the application are registered with the applying sponsor or lead sponsor's registered apprenticeship program and that each apprentice listed worked some time in Iowa during the prior calendar year. (maximum 10 points)

**67.4(3)** *Financial assistance awards.*

*a. Director approval.* The director will make final funding decisions after considering the recommendations of staff. Successful applicants will be notified in writing of an award of financial assistance, including the conditions and terms of approval.

*b. Disbursement of funds.* The department will disburse funds to a successful applicant only after approval of a completed application and execution of an agreement between the applicant and the department pursuant to this chapter. Prior to disbursement of funds, the applicant must provide the department with confirmation of expenses and the department must confirm that all terms for financial assistance have been met.

*c. Form of financial assistance.* The department will provide financial assistance in the form of a grant to the applicant. The amount of the grant and any other terms shall be included in the agreement required pursuant to this chapter.

*d. Use of funds.* An applicant shall use funds only for reimbursement of the costs directly related to the project. The department may require documentation or other information establishing the actual costs incurred for a project. Failure to use the funds for reimbursement of the costs directly related to a project shall be grounds for default under the agreement required pursuant to this chapter.

[**ARC 9657C**, IAB 10/29/25, effective 12/3/25]

**871—67.5(84F) Agreement required.**

**67.5(1)** Each applicant that is approved for financial assistance under the program shall enter into an agreement with the department for the provision of such financial assistance. The agreement will establish the terms on which the financial assistance is to be provided and may include any other terms reasonably necessary for the efficient administration of the program.

**67.5(2)** The department and the applicant may amend the agreement at any time upon the mutual agreement of both the department and the applicant.

**67.5(3)** The agreement may require an applicant that has been approved for financial assistance under the program to submit information reasonably required by the department to make reports to the governor's office or the general assembly.

[**ARC 9657C**, IAB 10/29/25, effective 12/3/25]

These rules are intended to implement Iowa Code chapter 84F.

[Filed ARC 5480C (Notice ARC 5279C, IAB 11/18/20), IAB 2/24/21, effective 3/31/21]

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[Editorial change: IAC Supplement 5/14/25]

[Filed ARC 9657C (Notice ARC 9530C, IAB 9/3/25), IAB 10/29/25, effective 12/3/25]

# CHAPTER 68
# ACCELERATED CAREER EDUCATION (ACE) PROGRAM

[Prior to 11/1/23, see Economic Development Authority[261] Ch 20]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 22]

Chapter rescission date pursuant to Iowa Code section 17A.7: 10/22/30

**871—68.1(260G) Purpose.** The ACE program is designed to provide businesses with an enhanced skilled workforce in Iowa. The program assists Iowa's community colleges in establishing or expanding programs that train individuals in the occupations most needed by Iowa businesses.
[**ARC 9567C**, IAB 9/17/25, effective 10/22/25]

**871—68.2(260G) Definitions.**

*"260G data system"* means the data system established by the department to record and submit data, upload documentation, and track programs and agreements.

*"Accelerated career education program"* or *"ACE program"* means the program established pursuant to Iowa Code chapter 260G and administered by the department.

*"Allotment"* means the distribution of program job credits among the community colleges in accordance with Iowa Code section 260C.18C.

*"Community college board"* means the governing board of a merged area as defined in Iowa Code section 260C.11.

*"Department"* means Iowa workforce development created in Iowa Code section 84A.1.

*"Program"* means a program of instruction designed by a community college that has been designated by a community college board and approved by the department as meeting the requirements of Iowa Code section 260G.4.

*"Program agreement"* means an agreement between an employer and a community college as described in Iowa Code section 260G.3.

*"Program job credit"* means a credit that an employer may claim against all withholding taxes due in an amount up to 10 percent of the gross program job wage of a program job position as authorized in an agreement between a community college and an employer.

*"Program services"* means services that include all of the following provided they are pursuant to a program agreement: program needs assessment and development, job task analysis, curriculum development and revision, instruction, instructional materials and supplies, computer software and upgrades, instructional support, administrative and student services, related school to career training programs, skill or career interest assessment services and testing and contracted services.
[**ARC 9567C**, IAB 9/17/25, effective 10/22/25]

**871—68.3(260G) Program eligibility and designation.**

**68.3(1)** In order to receive an allotment of program job credits, a community college must designate an eligible program. All programs must demonstrate increased capacity to enroll additional students. To be eligible, a program must be either:

*a.* A credit career or technical education program resulting in the conferring of a certificate, diploma, associate of science degree, or associate of applied science degree; or

*b.* A credit-equivalent career or technical education program consisting of not less than 540 contact hours of classroom and laboratory instruction and resulting in the conferring of a certificate or other recognized, competency-based credential.

**68.3(2)** A community college board will designate and approve an eligible program by resolution. The community college board of directors will ensure compliance with Iowa Code chapter 260G.

**68.3(3)** The department will review and approve all program designations and maintain a record of all approved programs.
[**ARC 9567C**, IAB 9/17/25, effective 10/22/25]

**871—68.4(260G) Funding allocation.**

**68.4(1)** *Base allocation.* The department will allocate the total amount of program job credits authorized and available to each community college for each fiscal year based on the formula established in Iowa Code section 260C.18C. For purposes of such allocation, the applicable ratios will be applied to commitments made by community colleges at the beginning of each fiscal year.

**68.4(2)** *Allotment of uncommitted funds.* Each community college will commit its allotment of program job credits as of April 1 of each fiscal year. Program job credits are considered committed if there is an executed program agreement or if there is a statement of intent that a program agreement will be executed by May 1 of the current fiscal year. Uncommitted funds will be reallocated on a first-come, first-served basis to other community colleges with executed program agreements that have not received all of the program job credits required. Funds that remain uncommitted as of June 30 will be reallocated based on the formula established in Iowa Code section 260C.18C for use during the following fiscal year.

**68.4(3)** *Department role.* The department will calculate and report to each community college its allotment. The department may deny the allocation of program job credits to any program that fails to comply with Iowa Code chapter 260G. The department will maintain records of the proposed program job credits under each agreement for each fiscal year.

**68.4(4)** *Submission of program agreements.* A community college will submit program agreements via the 260G data system to access its allotment of program job credits.

**68.4(5)** *Total amount of program job credits in any one fiscal year.* The total amount of program job credits from all employers that will be allocated for all programs in any one fiscal year will not exceed the amount specified in Iowa Code section 260G.4B(1).

[**ARC 9567C**, IAB 9/17/25, effective 10/22/25]

**871—68.5(260G) Program job credits.**

**68.5(1)** *Eligibility.* To be eligible to receive program job credits, an employer will demonstrate it has met the following requirements:

*a.* The program agreement must provide for pledged program positions paying at least 200 percent of the federal poverty level for a family of two as calculated at the time of approval of the agreement or any renewal. If the wage designated is to become effective after a training or probationary period, the employer must document that there is a plan in place regarding time frames for transition to the permanent full-time wage, and the employer must provide documentation that these time frames are reasonable and that the employer has previously adhered to the time frames.

*b.* The program agreement must establish a 20 percent employer cash or in-kind match for program costs.

**68.5(2)** *Determination of job credit amounts.*

*a.* Program job credits will be based upon the program job positions identified in the program agreement. No costs incurred prior to the effective date of a program agreement may be reimbursed or eligible for program job credits.

*b.* Eligibility for program job credits will be based on certification of program job positions and program job wages by the employer at the time established in the agreement.

*c.* An amount up to 10 percent of the gross program job wages as certified by the employer in the agreement will be credited from the total payment made by an employer pursuant to Iowa Code section 422.16.

*d.* The employer will remit the amount of the credit quarterly, in the same manner as withholding payments are reported to the department of revenue, to the community college to be allocated to and, when collected, paid into a special fund of the community college to pay, in part, the program costs.

*e.* When the program costs have been paid, the employer credits are to cease. Any moneys received after the program costs have been paid will be remitted to the treasurer of state to be deposited in the general fund of the state.

**68.5(3)** *Certification to department of revenue.*

*a.* The employer will certify to the department of revenue that the program job credits are in accordance with the program agreement and will provide other information the department may require.

*b.* The department will certify to the department of revenue on behalf of the community colleges that the amount of the program job credits is in accordance with each program agreement and will provide other information the department of revenue may require.

[**ARC 9567C**, IAB 9/17/25, effective 10/22/25]

**871—68.6(260G) Program agreements and administration.**

**68.6(1)** Program agreements will be developed by an employer and a community college. The development of the program agreements may be facilitated by an entity representing a group of employers. If a bargaining unit is in place with the employer pledging the jobs, a representative of the bargaining unit may take part in the development of the program agreement. All participating parties must sign the program agreement. The program agreement must include employer certification of contributions that are made toward the program costs.

**68.6(2)** A program agreement will include, at a minimum, the following terms:

*a.* Match provided by the employer;

*b.* Tuition, student fees, or special charges fixed by the community college board;

*c.* Guarantee of employer payments;

*d.* Type and amount of funding sources that will be used to pay for program costs;

*e.* Description of program services and implementation schedule;

*f.* The term of the agreement, not to exceed five years;

*g.* The employer's agreement to interview graduates for full-time positions and provide hiring preference;

*h.* For employers with more than four sponsored participants, certification that a job offer will be made to at least 25 percent of those participants who complete the program;

*i.* An agreement by the employer to provide a wage level of no less than 200 percent of the federal poverty guideline for a family of two;

*j.* A provision that the employer does not have to fulfill the job offer requirement if the employer experiences an economic downturn;

*k.* A provision that the participants will agree to interview with the employer following completion of the program; and

*l.* Default procedures.

**68.6(3)** Program agreements will be submitted to the department via the 260G data system. Program agreements will document the findings of the community college that all program and employer eligibility requirements have been met. The department will review agreements for issues of quality. The department will maintain a record of all approved agreements.

**68.6(4)** Term, amendments, and renewals.

*a. Term.* The term of a program agreement will not exceed five years from the effective date of the agreement. Once a program agreement is approved, the department will obligate job credits, contingent upon the availability of funding, for each year of the term of the agreement.

*b. Amendments.* A program agreement can be amended only with the consent of both parties and approval by the department. A program agreement can be amended to extend the term of the agreement a maximum of two years.

*c. Renewals.* A program agreement may be renewed upon completion of its approved term. The community college must demonstrate the program meets the eligibility requirements in Iowa Code section 260G.4, including increased program capacity, as of the date of approval of renewal by the department. A renewed agreement, including exhibits, will be entered and uploaded into the 260G data system. In order to renew an agreement, the following budgeted items and employer commitments will be updated:

(1) Sponsored positions;

(2) Program costs;

(3) Changes in tuition;

(4) Other fees;

(5) Changes in salaries and expenses;

(6) Federal poverty thresholds;

(7) Income;

(8) Employer match amounts;

(9) Any other items identified by the department.

**68.6(5)** The 260G data system will automatically assign a 12-digit agreement number once the agreement data is entered and approved. The agreement number will remain the same if an approved agreement is extended or otherwise amended. Program agreements that are renewed pursuant to paragraph 68.6(4)*"c"* will be assigned a new 12-digit number.

**68.6(6)** The department will provide information about the ACE program in accordance with its annual reporting requirements.

**68.6(7)** Each community college will establish a monitoring system that includes, at a minimum, a review of employers' compliance with the Iowa Code, these rules, and the program agreement. Monitoring will be conducted at least annually by community colleges with active program agreements. Each community college will document its monitoring efforts and promptly notify the department of any changes.

**68.6(8)** Coordination with other state agencies.

*a. Department of revenue.* When a program agreement is approved for funding, the community college will notify the authority through the 260G data system, and the department will notify the department of revenue on behalf of the community college within 30 days of the date of its approval. Information to be provided to the department of revenue includes but is not limited to program agreement number, employer name, employer address, start and expiration dates, federal employer identification number, Iowa withholding permit number, wages, sponsored positions, and approved amount of program job credits. If, at any time after a program agreement is approved, changes are made that would affect the above reporting requirements, the department of revenue and the department will be notified within 30 days.

*b. Department of education.* Community colleges and the department will provide program data to the department of education as required.

**68.6(9)** Program costs for new and renewal program agreements will be calculated or recalculated based on the required program services for a specific number of participants. Program agreement updates reflecting this recalculation must be submitted to the department to review compliance.

[**ARC 9567C**, IAB 9/17/25, effective 10/22/25]

These rules are intended to implement Iowa Code chapter 260G.

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# CHAPTER 69
# INNOVATIVE BUSINESSES INTERNSHIP PROGRAM

[Prior to 11/1/23, see Economic Development Authority[261] Ch 104]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 23]

Chapter rescission date pursuant to Iowa Code section 17A.7: 10/22/30

**871—69.1(15) Authority.** The authority for adopting rules establishing an innovative businesses internship program is provided in Iowa Code section 15.411(4).
[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.2(15) Purpose.** The purpose of the innovative businesses internship program is to link Iowa students to internship opportunities with innovative small- and medium-sized firms and to help such students convert their internships into employment opportunities.
[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.3(15) Definitions.**

*"Board"* means the members of the department appointed by the governor and in whom the powers of the department are vested pursuant to Iowa Code section 84A.1.

*"Committee"* means the technology commercialization committee established by the board pursuant to 261—Chapter 1.

*"Community college"* means a community college established under Iowa Code chapter 260C.

*"Department"* means Iowa workforce development created in Iowa Code section 84A.1.

*"Director"* means the director of Iowa workforce development.

*"Innovative business"* means the same as defined in Iowa Code section 15E.52(1)*"c."*

*"Internship"* means temporary employment of a student that focuses on providing the student with work experience in the student's field of study.

*"Program"* means the innovative businesses internship program established in this chapter.

*"Prospective employee"* means a student who is anticipated to be hired upon graduation.

*"Student"* means a student of one of the Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents or a student who graduated from high school in Iowa but attends an institution of higher learning outside the state of Iowa.
[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.4(15) Program funding.**

**69.4(1)** The maximum award amount that may be awarded for any single internship is $3,100 or $9,300 to any one employer.

**69.4(2)** Funds are to be used for reimbursement of wages during the designated internship period. Employers will pay students hired as interns an hourly wage that is at least twice the minimum wage.

**69.4(3)** The department will award funds to a business based upon department approval of a completed application and the execution of a contract between the business and the department.

**69.4(4)** A business may receive financial assistance on a matching basis for a portion of the wages paid to an intern. If providing financial assistance, the department will provide the assistance on a reimbursement basis such that for every two dollars of wages earned by the student, one dollar paid by the business is matched by one dollar from the department.
[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.5(15) Eligible business.** Eligible businesses may apply to the department for assistance under the program. The program is available to Iowa businesses that meet all of the following criteria:

**69.5(1)** The business is an Iowa-based business with fewer than 500 employees, with a significant portion employed within the state of Iowa.

**69.5(2)** The business is engaged in an innovative business.

**69.5(3)** The business offers the internship to students.

**69.5(4)** The business's summer internships have a minimum duration of 8 weeks (a minimum of 240 hours per internship), and the business's semester internships have a minimum duration of 14 weeks (a minimum of 140 hours per internship).

[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.6(15) Ineligible business.** The following businesses are not eligible for this program:

**69.6(1)** A business that is engaged in retail sales or that provides health services.

**69.6(2)** A business that closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operations to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.7(15) Eligible students.** Students who are within one to two years of graduation and enrolled at one of Iowa's community colleges, private colleges, or institutions of higher learning under the control of the state board of regents are eligible. A student as defined in this chapter is eligible for an internship under this rule. The department will encourage youth who reside in economically distressed areas, youth adjudicated to have committed a delinquent act, and youth transitioning out of foster care to participate in the program.

[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.8(15) Ineligible students.** Students who are more than two years from graduation are ineligible. Students who are immediate family members of management employees or board members of the applicant business are ineligible. Students who do not otherwise meet the eligibility requirements described in rule 871—69.7(15) are not eligible.

[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.9(15) Application submittal and review process.**

**69.9(1)** The department will develop a standardized application and make the application available to eligible businesses. To apply for assistance under the program, a business will submit an application to the department. Required forms and instructions are available by contacting the department or from the department's website at www.workforce.iowa.gov.

**69.9(2)** Applications will be reviewed and scored by department staff. The director of the department will make final funding decisions after considering the recommendations of staff. The director has final decision-making authority on requests for financial assistance for this program. The director may approve, defer or deny an application.

[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.10(15) Application content and other requirements.**

**69.10(1)** A business seeking assistance under the program will submit a complete application to the department. Successful applicants will enter into a contract with the department prior to posting or advertising the internship.

**69.10(2)** If an award is made, the business will secure an intern or interns within the time period stated in the contract between the department and the business.

**69.10(3)** The application will include but not be limited to all of the following:

*a.* The dates and location of the internship.

*b.* A statement of duties the intern will perform at the business site and how the duties correlate to a substantive experience in one or more of the following areas: research and development; engineering; process management and production; product experimentation and analysis; product development; market research; business planning; and administration. The application will also include information regarding the intern's work space (e.g., access to telephone, computer, and other necessary items).

*c.* The name of the business's representative who will train and supervise the intern.

*d.* A statement of the anticipated workforce needs at the business and the student's potential for prospective employment with the business following graduation.

**69.10(4)** The department reserves the right to require additional information from the business.

[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.11(15) Selection process.** Applications will be reviewed in the order received by the department. The director may approve, defer or deny each application for financial assistance based on the availability of funds. The department will score applications according to the criteria specified in rule 871—69.12(15). Applications that receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules will be considered for funding.
[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.12(15) Application scoring criteria.** When applications for financial assistance under the program are reviewed, the following criteria will be considered and scored as described below:

**69.12(1)** The extent to which the student is involved in a substantive experience in one or more of the following areas: research and development; engineering; process management and production; product experimentation and analysis; product development; market research; business planning; and administration. 25 points.

**69.12(2)** The quality and sufficiency of the explanation of the business's anticipated workforce needs and of the student's potential for prospective employment with the business following graduation. 20 points.

**69.12(3)** The extent to which the internship duties require independent judgment, creativity, and intelligence to complete and contribute to the business's goals or processes. 10 points.

**69.12(4)** The extent to which the internship will have a positive impact on the intern's skills, knowledge and abilities. 15 points.

**69.12(5)** The extent to which the internship pays more than twice the minimum wage. 10 points.

**69.12(6)** The business's contribution to the internship program is above the minimum program match requirement. 10 points.

**69.12(7)** Whether applications will be accepted by the employer from more than one private college, university or community college. 5 points.

**69.12(8)** Whether the application establishes that all considerations, including funding required to begin the internship, have been addressed. 5 points.
[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

**871—69.13(15) Contract and reporting.**

**69.13(1)** *Notice of award.* Successful applicants will be notified in writing of an award of assistance, including any conditions and terms of the approval.

**69.13(2)** *Contract required.* The department will execute a standard contract, which includes but is not limited to a description of the internship to be completed, conditions to disbursement, required reports, the applicable events of default, the repayment requirements imposed in the event of default, and other specific repayment provisions that may be established from time to time on a case-by-case basis.

**69.13(3)** *Reporting.* A business that has been awarded assistance under the program will submit any information requested by the department in sufficient detail to permit the department to prepare any reports required by the department, the board, the general assembly or the governor's office.

**69.13(4)** *Contract amendments.* The board does not need to approve a contract amendment. The director may approve contract amendments consistent with Iowa Code section 15.106C.
[**ARC 9568C**, IAB 9/17/25, effective 10/22/25]

These rules are intended to implement Iowa Code section 15.411(4).

[Filed 9/20/07, Notice 8/15/07—published 10/10/07, effective 11/14/07]
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[Editorial change: IAC Supplement 11/1/23]
[Editorial change: IAC Supplement 5/14/25]
[Filed ARC 9568C (Notice ARC 9430C, IAB 7/23/25), IAB 9/17/25, effective 10/22/25]

## CHAPTER 70
## VOTER REGISTRATION

[Prior to 5/21/97, see 345—1.3(96)]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 24]
Rescinded **ARC 9631C**, IAB 10/15/25, effective 11/19/25

## CHAPTER 71
## PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 25]
Rescinded **ARC 9632C**, IAB 10/15/25, effective 11/19/25

## CHAPTER 72
## PETITIONS

[Prior to 6/10/92, see 345—6.5(96) and 6.8(96)]
[Prior to 5/21/97, see Job Service[345] Ch 9]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 26]
Rescinded **ARC 9633C**, IAB 10/15/25, effective 11/19/25

## CHAPTER 73
## FORMS AND INFORMATIONAL MATERIALS

[Prior to 9/24/86, Employment Security[370] Ch 10]
[Prior to 5/21/97, see Job Service[345] Ch 10]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 28]
Rescinded **ARC 9634C**, IAB 10/15/25, effective 11/19/25

# CHAPTER 74
# IOWA OFFICE OF APPRENTICESHIP

[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 29]

Chapter rescission date pursuant to Iowa Code section 17A.7: 9/8/28

**871—74.1(90GA,SF318) Purpose.** The purpose of this chapter is to bring identified terms and language in 2023 Iowa Acts, Senate File 318, into conformity with federal requirements, necessary for the approval of the Iowa office of apprenticeship law by the United States Department of Labor Office of Apprenticeship in accordance with 29 CFR 29.13(a)(1).

[**ARC 7075C**, IAB 10/4/23, effective 9/8/23; Editorial change: IAC Supplement 5/14/25]

**871—74.2(90GA,SF318) Code of Federal Regulations reference.** All references to the Code of Federal Regulations (CFR) in this chapter are as amended to September 8, 2023.

[**ARC 7075C**, IAB 10/4/23, effective 9/8/23; Editorial change: IAC Supplement 5/14/25]

**871—74.3(90GA,SF318) Duties of office.** The Iowa office of apprenticeship shall establish time-based, competency-based and hybrid apprenticeship frameworks based on the regional and statewide collection of valuable credentials.

**74.3(1)** The Iowa office of apprenticeship shall establish the following standards and processes in conformance with 29 CFR Part 29:

*a.* Program performance standards in conformance with 29 CFR 29.6.

*b.* Process for deregistration of registered apprenticeship programs in conformance with 29 CFR 29.8.

*c.* Process for the reinstatement of a registered apprenticeship program that was previously deregistered under 29 CFR 29.8 in conformance with 29 CFR 29.9.

*d.* Appeal process for registered apprenticeship programs that have been deregistered in conformance with 29 CFR 29.10.

**74.3(2)** Neither the provisions of 2023 Iowa Acts, Senate File 318; federal law; or the apprenticeship agreement will invalidate any provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards.

**74.3(3)** Neither the provisions of 2023 Iowa Acts, Senate File 318; federal law; nor the apprenticeship agreement will invalidate any special provision for veterans, minority persons, or women in the standards, apprenticeship qualifications or operation of the program which is not prohibited by state or federal law.

**74.3(4)** The Iowa office of apprenticeship will establish a process for complaints in conformance with 29 CFR 29.12.

[**ARC 7075C**, IAB 10/4/23, effective 9/8/23; Editorial change: IAC Supplement 5/14/25]

**871—74.4(90GA,SF318) Requirements for sponsors and employers.** Sponsors and employers are responsible for the following:

1. Ensuring the program conforms to 29 CFR Part 29 standards of apprenticeship.
2. Ensuring the program complies with 29 CFR Part 30 equal employment opportunity in apprenticeship.
3. Ensuring the program complies with the Iowa Office of Apprenticeship Standards and Regulations document approved by the United States Department of Labor.
4. Ensuring the program complies with 2023 Iowa Acts, Senate File 318.

[**ARC 7075C**, IAB 10/4/23, effective 9/8/23; Editorial change: IAC Supplement 5/14/25]

**871—74.5(90GA,SF318) Approval of apprenticeship program.** All registered apprenticeship programs eligible for approval by the Iowa office of apprenticeship must comply with 29 CFR Parts 29 and 30; 2023 Iowa Acts, Senate File 318; the state plan approved by the United States Department of Labor Office of Apprenticeship; and the administrative rules.

[**ARC 7075C**, IAB 10/4/23, effective 9/8/23; Editorial change: IAC Supplement 5/14/25]

These rules are intended to implement Iowa Code chapter 84D as enacted by 2023 Iowa Acts, Senate File 318.

[Filed Emergency After Notice ARC 7075C (Notice ARC 7052C, IAB 7/26/23), IAB 10/4/23, effective 9/8/23]

[Editorial change: IAC Supplement 5/14/25]

# CHAPTER 75
# STEM INTERNSHIP PROGRAM

[Prior to 11/1/23, see Economic Development Authority[261] Ch 110]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 30]

Chapter rescission date pursuant to Iowa Code section 17A.7: 10/22/30

**871—75.1(15,85GA,ch1132,86GA,SF510) Authority.** The authority for adopting rules establishing a STEM internship program is provided in Iowa Code sections 15.411(5) and 15.106A.
[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.2(15,85GA,ch1132,86GA,SF510) Purpose.** The purpose of the STEM internship program is to assist in placing Iowa students studying in the fields of science, technology, engineering, and mathematics into internships that lead to permanent positions with Iowa employers.
[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.3(15) Definitions.**

*"Board"* means the members of the department appointed by the governor and in whom the powers of the department are vested pursuant to Iowa Code section 84A.1.

*"Committee"* means the technology commercialization committee established by the board pursuant to 261—Chapter 1.

*"Community college"* means a community college established under Iowa Code chapter 260C.

*"Department"* means Iowa workforce development created in Iowa Code section 84A.1.

*"Designated internship period"* means the summer or semester during which a student is employed in an internship.

*"Director"* means the director of Iowa workforce development.

*"Employer"* means any enterprise located in this state that is operated for profit and under a single management.

*"Internship"* means temporary employment of a student that focuses on providing the student with work experience in the student's field of study.

*"Program"* means the STEM internship program established in this chapter.

*"STEM field"* means a major course of study within the field of science, technology, engineering, or mathematics or a related field. For purposes of this chapter, "STEM field" includes all majors and academic or degree programs listed on the ACT-defined STEM majors and occupations by area list. The ACT-defined STEM majors and occupations by area list may be found at www.act.org. If a student has declared a major or is enrolled in an academic or degree program not listed on the ACT-defined STEM majors and occupations by area list, the student may still be found eligible for participation in the program if, in the department's sole discretion, the student's major is substantially similar to a major that is listed on the ACT-defined STEM majors and occupations by area list.

*"Student"* means a student of one of the Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents or a student who graduated from high school in Iowa but now attends an institution of higher learning outside the state of Iowa.
[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.4(15,85GA,ch1132,86GA,SF510) Program funding and disbursement.**

**75.4(1)** The maximum amount that may be awarded to an employer for any one internship is $5,000. The maximum amount that may be awarded to any one employer in any one fiscal year is $50,000.

**75.4(2)** Funds are to be used for reimbursement of wages paid during the designated internship period. An employer will pay students hired as interns an hourly wage that is at least twice the minimum wage.

**75.4(3)** The department will award funds to an employer only after approval of a completed application and execution of a contract between the employer and the department. The department will have sole discretion in determining whether an application is fully complete.

**75.4(4)** An Iowa employer may qualify for financial assistance under the program on a matching basis for a portion of the wages paid to an intern during the designated internship period. If providing financial assistance, the department will provide the assistance on a reimbursement basis such that for every two dollars of wages earned by the student, one dollar paid by the employer is matched by one dollar from the department.

[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.5(15,85GA,ch1132,86GA,SF510) Eligible employers.** Eligible employers may apply to the department for assistance under the program. The program is available to employers that meet all of the following criteria:

**75.5(1)** The employer is an Iowa-based business and has a significant portion of its employees located within the state of Iowa.

**75.5(2)** The employer employs students who have either declared a major in a STEM field or who are enrolled in a STEM-related academic or degree program at a community college. The students are employed as interns at a location in Iowa.

**75.5(3)** The employer offers the internship to students of Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents or to students who graduated from high school in Iowa but attend an institution of higher learning outside the state of Iowa.

**75.5(4)** The employer offers either summer- or semester-based internships. The summer internships have a minimum duration of 8 weeks (a minimum of 240 hours per internship), and the semester internships have a minimum duration of 14 weeks (a minimum of 140 hours per internship).

[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.6(15,85GA,ch1132,86GA,SF510) Ineligible employers.** The following employers are not eligible for the program:

**75.6(1)** An employer that is a business engaged in retail sales.

**75.6(2)** An employer that closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operations to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

**75.6(3)** An employer that has applied or will apply during the same state fiscal year to the innovative businesses internship program under 871—Chapter 69 is ineligible to receive funding under the STEM internship program.

[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.7(15,85GA,ch1132,86GA,SF510) Eligible students.** To be eligible, a person meets the requirements of a "student" as defined in rule 871—75.3(15) and is a person who is within one to two years of graduation, has declared a major in a STEM field or is enrolled in a STEM-related academic or degree program at a community college, and is hired for an internship at an Iowa employer during a designated internship period.

[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.8(15,85GA,ch1132,86GA,SF510) Ineligible students.** Students who are more than two years from graduation are ineligible. Students who have not declared a major in a STEM field or are not enrolled in a STEM-related academic or degree program at a community college are ineligible. Students who are immediate family members of management employees or board members of the applicant employer are ineligible. Students who do not otherwise meet the eligibility requirements described in rule 871—75.7(15,85GA,ch1132,86GA,SF510) are ineligible.

[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.9(15,85GA,ch1132,86GA,SF510) Application submittal and review process.**

**75.9(1)** The department will develop a standardized application and make the application available to eligible employers. To apply for assistance under the program, an employer will submit an application to the department. Required forms and instructions are available by contacting the department or from the department's website at www.workforce.iowa.gov.

**75.9(2)** Applications will be reviewed and scored by the staff of the department. The director of the department will make final funding decisions after considering the recommendations of staff. The director has final decision-making authority on requests for financial assistance for this program. The director may approve, defer or deny an application.

[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.10(15,85GA,ch1132,86GA,SF510) Application content and other requirements.**

**75.10(1)** An employer seeking assistance under the program will submit a completed application to the department.

**75.10(2)** If an award is made, the employer will secure an intern or interns within the time period stated in the contract between the department and the employer.

**75.10(3)** The application will include but not be limited to all of the following:

*a.* The dates and location of the internship.

*b.* A statement of duties the student will perform at the internship site and how the duties correlate to a substantive experience in an area closely related to the student's STEM field. The application will also include information regarding the student's work space (e.g., access to telephone, computer, and other necessary items).

*c.* The name of the employer's representative who will train and supervise the student.

*d.* A statement of the anticipated workforce needs at the internship site and the student's potential for prospective employment with the employer following graduation.

**75.10(4)** In accepting applications from employers, the department may require additional information reasonably related to the program.

[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.11(15,85GA,ch1132,86GA,SF510) Award process.** Applications will be reviewed in the order received by the department. The department will attempt to award as many eligible internships as funding allows. However, the department may deny applications for incompleteness or because of insufficient funds. The department will score applications according to the criteria specified in rule 871—75.12(15,85GA,ch1132,86GA,SF510). Applications that receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules will be considered for funding.

[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.12(15,85GA,ch1132,86GA,SF510) Application scoring criteria.** When applications for financial assistance under the program are reviewed, the following criteria will be considered and scored as described below:

**75.12(1)** The extent to which the student is involved in a substantive experience closely related to the student's STEM field of study. 30 points.

**75.12(2)** The quality and sufficiency of the explanation of the employer's anticipated workforce needs and of the student's potential for prospective employment with the employer or another Iowa employer following graduation. 30 points.

**75.12(3)** The extent to which the internship duties require independent judgment, creativity, and intelligence to complete and contribute to the employer's goals or processes. 10 points.

**75.12(4)** The extent to which the internship will have a positive impact on the student's skills, knowledge and abilities. 10 points.

**75.12(5)** Whether the internship pays more than twice the minimum wage. 10 points.

**75.12(6)** Whether applications will be accepted by the employer from more than one private college, university or community college. 5 points.

**75.12(7)** Whether the application establishes that all relevant internship considerations, including necessary funding, have been addressed by the employer in advance. 5 points.

[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

**871—75.13(15,85GA,ch1132,86GA,SF510) Contract and reporting.**

**75.13(1)** *Notice of award.* Successful applicants will be notified in writing of an award of assistance, including any conditions and terms of the approval.

**75.13(2)** *Contract required.* An employer receiving an award under the program will execute a standard contract prepared by the department. The contract may include but is not limited to a description of the internship to be completed, the conditions for disbursement, required reporting, the applicable events of default, the repayment requirements imposed in the event of default, and any other specific provisions that may be established from time to time on a case-by-case basis.

**75.13(3)** *Reporting.* An employer receiving assistance under the program will submit any information reasonably requested by the department in sufficient detail to permit the department to prepare any reports required by the department, the board, the general assembly or the governor's office.

**75.13(4)** *Contract amendments and terminations.* Contract amendments or termination may be approved by the director without board approval.

[**ARC 9569C**, IAB 9/17/25, effective 10/22/25]

These rules are intended to implement 2014 Iowa Acts, chapter 1132, section 12, and Iowa Code section 15.411(5).

[Filed Emergency ARC 2099C, IAB 8/19/15, effective 7/20/15]
[Filed ARC 2316C (Notice ARC 2098C, IAB 8/19/15), IAB 12/23/15, effective 1/27/16]
[Filed ARC 3386C (Notice ARC 3155C, IAB 7/5/17), IAB 10/11/17, effective 11/15/17]
[Editorial change: IAC Supplement 11/1/23]
[Editorial change: IAC Supplement 5/14/25]
[Filed ARC 9569C (Notice ARC 9431C, IAB 7/23/25), IAB 9/17/25, effective 10/22/25]

# CHAPTER 76
# ADULT EDUCATION AND LITERACY PROGRAMS

[Prior to 9/7/88, see Public Instruction Department[670] Ch 34]
[Prior to 8/23/23, see Education Department[281] Ch 23]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 32]

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/8/29

**871—76.1(84A) Definitions.**

*"Act"* means the Adult Education and Family Literacy Act, 29 U.S.C. Sections 3101 et seq.

*"Adult education and literacy program"* means the same as "adult education and literacy programs" defined in Iowa Code section 84A.19, as well as other activities specified in the Act.

*"Career pathways"* means the same as defined in 29 U.S.C. Section 3102, subsection 7, with the exception of item (F).

*"Coordinator"* means the person(s) responsible for making decisions for the adult education and literacy program at the local level.

*"Department"* means the Iowa department of workforce development.

*"English as a second language"* means a structured language acquisition program designed to teach English to students whose native language is other than English.

*"Intake"* means admittance and enrollment in an adult education and literacy program operated by an eligible provider.

*"Professional staff"* means all staff who are engaged in providing services, including instruction and data entry, for individuals who are eligible for adult education and literacy programs.

*"State assessment policy"* means a federally approved policy that stipulates the use of a standardized assessment, scoring and reporting protocols, certification requirements for test administrators, and the protocol for tracking test and attendance data.

*"State plan"* means the compliance document that outlines Iowa's workforce development system four-year strategy for providing workforce services, including adult education and literacy, to Iowans and employers. State planning shall be developed in accordance with applicable federal legislation.

*"Volunteer staff"* means all non-paid persons who perform services, including individualized instruction and data entry, for individuals who are eligible for adult education and literacy programs.

[**ARC 7750C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—76.2(84A) Program administration.** The department is designated as the agency responsible for administration of state and federally funded adult basic education programs and for supervision of the administration of adult basic education programs. The department is responsible for the allocation and distribution of state and federal funds awarded to eligible providers for adult basic education programs through a grant application in accordance with this chapter and with the state plan.

**76.2(1)** *Eligible providers.* Eligible providers are eligible entities as defined by the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation, and approved by the department.

**76.2(2)** *Program components.*

*a.* The eligible provider will maintain the ability to provide the following adult education and literacy services as deemed appropriate by the community or needs of the students:

(1) Adult basic education;

(2) Programs for adults who are English learners;

(3) Adult secondary education, including programs leading to the achievement of a high school equivalency certificate or high school diploma;

(4) Instructional services provided by qualified instructors as defined in subrule 76.6(1) to improve student proficiencies necessary to function effectively in adult life, including accessing further education, employment-related training, or employment;

(5) Assessment and guidance services adhering to the state's assessment policy; and

(6) Programs and services stipulated by current and subsequent federal and state adult education legislation.

*b.* Providers effectively use technology, services, and delivery systems, including distance education, in a manner sufficient to increase the amount and quality of student learning and performance.

*c.* Providers ensure a student acquires the skills needed to transition to and complete postsecondary education and training programs and obtain and advance in employment leading to economic self-sufficiency.

**76.2(3)** *Local planning.*

*a.* Adult education and literacy programs are to collaborate and enter into agreements with multiple partners in the community for the purpose of establishing a local plan. Such plans are to expand the services available to adult learners, align with the strategies and goals established by the state plan, and prevent duplication of services.

*b.* An adult education and literacy program's agreement will not be formalized until the local plan is approved by the department. A plan will be approved if the plan complies with the standards and criteria outlined in this chapter, federal adult education and family literacy legislation, and the strategies and goals of the state plan as defined in the local plan application.

*c.* Local plans may be approved by the state for single or multiple years.

**76.2(4)** *Federal funding.* Federal funds received by an adult education and literacy program are not to be expended for any purpose other than authorized activities pursuant to the Act.

**76.2(5)** *State funding.* Moneys received from state funding sources for adult education and literacy programs are to be used in the manner described in this subrule. All funds are to be used to expand services and improve the quality of adult education and literacy programs.

*a. Use of funds.* State funding may only be expended on:

(1) Allowable uses pursuant to the Act.

(2) High school equivalency testing and associated costs.

*b. Restrictions.* In expending state funding, adult education and literacy programs shall adhere to the allowable use provisions of the Act, except for administrative cost provisions.

*c. Reporting.* All reporting for state funding will adhere to a summary of financial transactions related to the adult education and literacy program's resources and expenses in a format prescribed by the department. Adult education and literacy programs will submit quarterly reports to the department on dates to be set by the department. A year-end report will be submitted to the department no later than October 1.

**76.2(6)** *English as a second language.* In addition to meeting subrules 76.2(1) through 76.2(5), English as a second language programs are to adhere to the following provisions.

*a. Distribution and allocation.* The department will prescribe the distribution and allocation of funding, based on need for instruction in English as a second language in the region served by each community college, as measured by census data, survey data, and local outreach efforts and results.

*b. Midyear reporting.* English as a second language programs will include a narrative describing the progress and attainment of benchmarks established by the department. The report is to be provided to the department midway through the academic year.

**76.2(7)** *Funding allocation.* The department will be responsible for the allocation and distribution of state and federal funds for adult basic education programs in accordance with these rules and with the state plan. The state has the right under federal legislation to establish the funding formula and to issue a competitive bidding process.

[**ARC 7750C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—76.3(84A) References.** All references to the United States Code (U.S.C.) and Iowa Adult Education Professional Development Standards in this chapter are as amended to November 1, 2023.

[**ARC 7750C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—76.4(84A) Career pathways.** Adult education and literacy programs may use state adult education and literacy education funding for activities related to the development and implementation of the basic skills component of a career pathways system.

**76.4(1)** *Collaboration.* Adult education and literacy programs are to coordinate with other available education, training, and social service resources in the community for the development of career pathways, such as by establishing strong links with elementary schools and secondary schools, postsecondary

educational institutions, institutions of higher education, local workforce boards, one-stop centers, job training programs, social service agencies, business and industry, labor organizations, community-based organizations, nonprofit organizations, and intermediaries.

**76.4(2)** *Use of state funds.* Only activities directly linked to adult education and literacy programs and instruction shall be funded with moneys received from state adult education and literacy funds. Consideration will be given to entities providing adult education and literacy activities concurrently with workforce preparation activities and workforce training for the purpose of educational and career advancement.

[**ARC 7750C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—76.5(84A) Student eligibility.** A person seeking to enroll in an adult education and literacy program is eligible if the person meets the criteria in 29 U.S.C. Section 3272(4).

[**ARC 7750C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—76.6(84A) Qualification of staff.** This rule applies to all staff hired after July 1, 2015. All staff hired prior to July 1, 2015, are exempt from this rule.

**76.6(1)** *Professional staff.* Professional staff providing instruction in an adult education and literacy program to students possess at minimum a bachelor's degree.

**76.6(2)** *Volunteer staff.* Volunteer staff possess at minimum a high school diploma or high school equivalency diploma.

[**ARC 7750C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—76.7(84A) High-quality professional development.**

**76.7(1)** *Responsibility of program.* Adult education and literacy programs are responsible for providing professional development opportunities for professional and volunteer staff pursuant to this rule, including:

*a.* Proper procedures for the administration and reporting of data;

*b.* The development and dissemination of instructional and programmatic practices based on the most rigorous and scientifically valid research available; and

*c.* Appropriate reading, writing, speaking, mathematics, English language acquisition, distance education, and staff training practices aligned with content standards for adult education.

**76.7(2)** *Professional development.* Professional development is to include formal and informal means of assisting professional and volunteer staff to:

*a.* Acquire knowledge, skills, approaches, and dispositions;

*b.* Explore new or advanced understandings of content, theory, and resources; and

*c.* Develop new insights into theory and its application to improve the effectiveness of current practice and lead to professional growth.

**76.7(3)** *Professional development standards.* The department and entities providing adult education and literacy programs are to promote effective professional development and foster continuous instructional improvement. Professional development is to incorporate the following standards:

*a.* Strengthens professional and volunteer staff knowledge and application of content areas, instructional strategies, and assessment strategies based on research;

*b.* Prepares and supports professional and volunteer staff in creating supportive environments that help adult learners reach realistic goals;

*c.* Uses data to drive professional development priorities, analyze effectiveness, and help sustain continuous improvement for adult education and literacy programs and learners;

*d.* Uses a variety of strategies to guide adult education and literacy program improvement and initiatives;

*e.* Enhances abilities of professional and volunteer staff to evaluate and apply current research, theory, evidence-based practices, and professional wisdom;

*f.* Models or incorporates theories of adult learning and development; and

*g.* Fosters adult education and literacy program, community, and state-level collaboration.

**76.7(4)** *Provision of professional development.* Adult education and literacy program staff are to participate in professional development activities that are related to their job duties and improve the quality of the adult education and literacy program with which the staff is associated. All professional development activities will be in accordance with the published Iowa Adult Education Professional Development Standards.

*a.* All professional staff are to receive at least 12 clock hours of professional development annually. Professional staff who possess a valid Iowa teacher certificate are exempt from this paragraph.

*b.* All professional staff new to adult education are to receive six clock hours of preservice professional development prior to, but no later than, one month after starting employment with an adult education program. Preservice professional development may apply toward the professional development described in paragraph 76.7(4)*"a."*

*c.* Volunteer staff are to receive 50 percent of the professional development in paragraphs 76.7(4)*"a"* and *"b."*

**76.7(5)** *Individual professional development plan.* Adult education and literacy programs are to develop and maintain a plan for hiring and developing quality professional staff that includes all of the following:

*a.* An implementation schedule for the plan.

*b.* Orientation for new professional staff.

*c.* Continuing professional development for professional staff.

*d.* Procedures for accurate record keeping and documentation for plan monitoring.

*e.* Specific activities to ensure that professional staff attain and demonstrate instructional competencies and knowledge in related adult education and literacy fields.

*f.* Procedures for collection and maintenance of records demonstrating that each staff member has attained or documented progress toward attaining minimal competencies.

*g.* Provision that all professional staff will be included in the plan. The plan may be differentiated for each type of employee.

**76.7(6)** *Waiver.* The time for professional development may be reduced by local adult education and literacy programs in individual cases where exceptional circumstances prevent staff from completing the specified hours of professional development. Documentation is to be kept that justifies the granting of a waiver. Requests for exemption from staff qualification requirements in individual cases will be kept on record and available to the department for review upon request.

**76.7(7)** *Monitoring.* Each program will maintain records of staff qualifications and professional development for five years, which will be available to department staff for monitoring upon request.

[**ARC 7750C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—76.8(84A) Performance and accountability.**

**76.8(1)** *Accountability system.* Adult education and literacy programs shall adhere to the standards established by the Act in the use and administration of the accountability system, as well as this rule. The accountability system will be a statewide system to include enrollment reports, progress indicators and core measures.

**76.8(2)** *Performance indicators.*

*a. Compliance.* Adult education and literacy programs will adhere to the policies and procedures outlined in the state assessment policy. Data will be submitted by the tenth day of each month or, should that day fall outside of standard business hours, the first Monday following the tenth day of the month. All adult education and literacy programs will comply with data quality reviews and complete quality data checks to ensure federal compliance with reporting.

*b. Determination of progress.* Upon administration of a standardized assessment, within the first 12 hours of attendance, adult education and literacy programs will place eligible students at an appropriate level of instruction. Progress assessments will be administered after the recommended hours of instruction as published in the state assessment policy.

*c. Core measures.* Federal and state adult education and literacy legislation has established data for reporting core measures, including percentage of participants in unsubsidized employment during the second and fourth quarter after exit from the program; median earnings; percentage of participants who

obtain a postsecondary credential or diploma during participation or within one year after exit from the program; participants achieving measurable skill gains; and effectiveness in serving employers.

[**ARC 7750C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

These rules are intended to implement Iowa Code section 84A.19.

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Title IV
IOWA VOCATIONAL REHABILITATION SERVICES

# CHAPTER 77
# IOWA VOCATIONAL REHABILITATION SERVICES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 35]
[Prior to 8/23/23, see Education Department[281] Ch 56]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 33]

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/8/29

**871—77.1(84H) Nature and responsibility of division.** The division of vocational rehabilitation services is established in the department of workforce development and is responsible for providing services to potentially eligible and eligible individuals with disabilities leading to competitive integrated employment in accordance with Iowa Code chapter 84H, the federal Rehabilitation Act of 1973, the federal Social Security Act (42 U.S.C. Section 301, et seq.), and the corresponding federal regulations.
[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—77.2(84H) Nondiscrimination.** The division shall not discriminate on the basis of age, race, creed, color, gender, sexual orientation, gender identity, national origin, religion, duration of residency, or disability in the determination of a person's eligibility for rehabilitation services and in the provision of necessary rehabilitation services.
[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—77.3(84H) References.** All references to the Code of Federal Regulations (CFR) and United States Code (U.S.C.) in this chapter are as amended to November 1, 2023.
[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—77.4(84H) Definitions.** For the purpose of this chapter, the indicated terms are defined as follows:

*"Act"* means the federal Rehabilitation Act of 1973 as codified at 29 U.S.C. Section 701, et seq.

*"Aggregate data"* means information about one or more aspects of division job candidates, or from some specific subgroup of division job candidates, but from which personally identifiable information on any individual cannot be discerned.

*"Applicant"* means an individual or the individual's representative, as appropriate, who has completed the Iowa vocational rehabilitation services (IVRS) Application for Services (R-412), a common intake application form through a one-stop center requesting IVRS services, or has otherwise requested services from IVRS; has provided to IVRS information necessary to initiate an assessment to determine eligibility and priority for services; is available to complete the assessment process; and has reviewed and signed the Rights and Responsibilities (IPE-1).

*"Appropriate modes of communication"* means the same as defined in 34 CFR Section 361.5(4).

*"Assessment for determining eligibility or in the development of an IPE"* means a review of existing data and, to the extent necessary, the provision of appropriate assessment activities to obtain additional information to make a determination and to assign the priority for services or development of an IPE.

*"Assistive technology device"* means the same as defined in Section 3 of the Assistive Technology Act of 1998.

*"Assistive technology service"* means the same as defined in Section 3 of the Assistive Technology Act of 1998.

*"Benefits planning"* means assistance provided to an individual who is interested in becoming employed, but is uncertain of the impact work income may have on any disability benefits and entitlements being received, and is or is not aware of benefits, such as access to health care, that might be available to support employment efforts.

*"Case record"* means the file of personally identifiable information, whether written or electronic in form, on an individual that is collected to carry out the purposes of the division as defined in the Act. This information remains a part of the case record and is subject to these rules even when temporarily physically removed, either in whole or in part, from the file folder in which it is normally kept.

*"Community rehabilitation program"* or *"CRP"* means the same as defined in 34 CFR Section 361.5(7).

*"Comparable services and benefits"* means the same as defined in 34 CFR Section 361.5(8).

*"Competitive integrated employment"* means the same as defined in 34 CFR Section 361.5(9).

*"Competitive integrated work setting,"* with respect to the provision of services, means a setting, typically found in the community, in which applicants or eligible individuals interact with nondisabled individuals, other than nondisabled individuals who are providing services to those applicants or eligible individuals, and said interaction is consistent with the quality of interaction that would normally occur in the performance of work by the nondisabled coworkers.

*"Customized employment"* means the same as defined in 34 CFR Section 361.5(11).

*"Department"* means the department of workforce development.

*"Designated representative"* means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the designated representative.

*"Designated state unit"* or *"DSU"* means Iowa vocational rehabilitation services.

*"Division"* or *"IVRS"* means Iowa vocational rehabilitation services.

*"Eligible individual"* means an applicant for services from the division who meets the eligibility requirements.

*"Employment outcome"* means the same as defined in 34 CFR Section 361.5(15).

*"Extended employment"* means the same as defined in 34 CFR Section 361.5(18).

*"Extended services"* means the same as defined in 34 CFR Section 361.5(19).

*"Family income,"* for purposes of calculating the financial participation rate for services, means those who are financially responsible for the support of the job candidate and may involve individuals who live in the same or separate households including partners and spouses.

*"Family member,"* for purposes of vocational rehabilitation services, means any individual who lives with the individual with a disability and has a vested interest in the welfare of that individual whether by marriage, birth, or choice. A family member is an individual who either (1) is a relative or guardian of an applicant or job candidate, or (2) lives in the same household as an applicant or job candidate, who has a substantial interest in the well-being of the applicant or job candidate, and whose receipt of vocational rehabilitation services is necessary to enable the applicant or job candidate to achieve an employment outcome.

*"IDEA"* means the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

*"Impartial hearing officer"* or *"IHO"* means the same as defined in 34 CFR Section 361.5(24).

*"Independent living services"* or *"IL services"* means services authorized under Title VII, Chapter 1, Part B, of the Rehabilitation Act of 1973.

*"Individualized plan for employment"* or *"IPE"* means a plan that specifies the services needed by an eligible individual and the responsibilities of the individual with a disability and other payers. An IPE contains the matter set forth in or permitted by 34 CFR Section 361.46.

*"Individual with a disability"* means the same as defined in 34 CFR Section 361.5(28).

*"Individual with a most significant disability"* means the same as defined in 34 CFR Section 361.5(29).

*"Individual with a significant disability"* means the same as defined in 34 CFR Section 361.5(30).

*"Institution of higher education"* or *"IHE"* means the same as defined in Section 102(a) of the Higher Education Act of 1965.

*"Job candidate"* means an applicant or eligible individual applying for or receiving benefits or services from any part of the division and includes former job candidates of the division whose files or records are retained by the division.

*"Job retention waiting list release"* means the mechanism used to remove a job candidate from the division waiting list when the individual is at immediate risk of losing the job and requires vocational rehabilitation service(s) or good(s) in order to maintain employment. This applies only for those service(s) or good(s) that will allow the individual to maintain employment. After the individual receives said service(s) or good(s), the individual's file will be closed if the individual is satisfied with the services

provided and requires no further services. If there are additional services needed, the individual will return to the waiting list, if necessary, until that point where the individual's priority of service is being served.

*"Maintenance"* means the same as defined in 34 CFR Section 361.5(34).

*"Mediation"* means the same as defined in 34 CFR Section 361.5(35).

*"Menu of services"* means the services provided by community partners to assist an individual with a disability in achieving an employment outcome. Menu of services refers to various services that the division is able to purchase from an approved CRP or other approved provider on behalf of a job candidate. The services are selected and jointly agreed upon by the counselor and job candidate of the division. Payments for services are made based on a fee structure that is published and updated annually, and there is no financial needs assessment applied toward the costs of these purchased services from the community partner.

*"Ongoing support services"* means the same as defined in 34 CFR Section 361.5(37).

*"Personal assistance services"* means the same as defined in 34 CFR Section 361.5(38).

*"Physical or mental impairment"* means the same as defined in 34 CFR Section 361.5(40).

*"Physical or mental restoration services"* means the same as defined in 34 CFR Section 361.5(39).

*"Plan for natural supports"* means a plan initiated prior to the implementation of the supported employment program that describes the natural supports to be used on the job; the training provided to the supervisor and mentor on the job site; the technology used in the performance of the work; the rehabilitation strategies and trainings that will be taught to the mentor in order to support and direct the job candidate on the job; the supports needed outside of work for the job candidate to be successful; and the methods by which the employer can connect with the job candidate's job coach/IVRS staff member, or the training program when the need arises.

*"Postemployment services"* means the same as defined in 34 CFR Section 361.5(41).

*"Potentially eligible"* for the purposes of preemployment transition services means all students with disabilities. A student is considered potentially eligible until the student has applied for services and an eligibility decision has been determined.

*"Preemployment transition services"* or *"pre-ETS"* means those services specified in 34 CFR Section 361.48(a).

*"Recognized educational program"* includes secondary education programs, nontraditional or alternative secondary education programs (including homeschooling), postsecondary education programs, and other recognized educational programs such as those offered through the juvenile justice system.

*"Rehabilitation technology"* means the same as defined in 34 CFR Section 361.5(45).

*"Satisfactory employment"* means stable employment in a competitive integrated employment setting that is consistent with the individual's IPE and acceptable to both the individual and the employer.

*"Self-employment services"* means services to assist individuals with disabilities to achieve a self-employment outcome consistent with the individual's abilities, preferences and needs. Self-employment is a vocational option through the division that is available only to for-profit businesses intended for operation within the state of Iowa. The division provides two options within the program, which include the full self-employment program and micro-enterprise development. These services provide information, strategies and resources to help the business become self-sustaining while assisting the individual in assuring all necessary supports are in place for long-term success.

*"Status"* means the existing condition or position of a case. The specific case statuses are as follows:

1. 00-0 Referral for services.
2. 01-0 Potentially eligible student.
3. 01-1 Closed from potentially eligible.
4. 02-0 Applicant.
5. 04-0 Waiting list.
6. 08-0 Closed before acceptance (from Status 02-0).
7. 10-0 Accepted for services (plan development) adults.
8. 10-1 Accepted for services (plan development) high school students.
9. 14-0 Counseling and guidance.
10. 16-0 Physical and mental restoration.

11. 18-__ Training.
- 18-1 Work adjustment training/assessment.
- 18-2 On-the-job training.
- 18-3 Vocational-technical training.
- 18-4 Academic training.
- 18-5 Secondary education.
- 18-6 Supported employment.
- 18-7 Other types of training (including nonsupported employment job coaching, job development, ISE).

12. 20-0 Ready for employment.
13. 22-0 Employed.
14. 24-0 Services interrupted.
15. 26-0 Closed rehabilitated.
16. 28-0 Closed after IPE initiated (from Status 14-0 through 24-0).
17. 30-0 Closed before IPE initiated (from Status 10-_).
18. 32-0 Postemployment services (from Status 26-0).
19. 33-__ Closed after postemployment services (from Status 32-0).
- 33-1 Individual is returned to suitable employment or the employment situation is stabilized.
- 33-2 The case has been reopened for comprehensive vocational rehabilitation services.
- 33-3 The postemployment services are no longer assisting the individual and further services would be of no assistance.

20. 38-0 Closed from Status 04-0 (individual does not meet one of the waiting list categories, and the individual no longer wants to remain on the waiting list or fails to respond when contacted because individual's name is at the top of the waiting list).

*"Student with a disability"* means an individual with a disability in a secondary, postsecondary, or other recognized education program who is not younger than 14 years of age and not older than 21 years of age; and is eligible for, and receiving, special education or related services under Part B of the Individuals with Disabilities Education Act or is a student who is an individual with a disability, for purposes of Section 504.

*"Substantial impediment to employment"* means the same as defined in 34 CFR Section 361.5(52).

*"Supported employment"* means the same as defined in 34 CFR Section 361.5(53).

*"Supported employment services"* means the same as defined in 34 CFR Section 361.5(54).

*"Transition services"* means the same as defined in 34 CFR Section 361.5(55).

*"Transportation"* means the same as defined in 34 CFR Section 361.5(56).

*"Vocational rehabilitation services"* means the same as defined in 34 CFR Section 361.5(57).

*"Waiting list"* means the listings of eligible individuals for vocational rehabilitation services who are not in a category being served, otherwise known as "order of selection" under the Workforce Innovation and Opportunity Act of 2014.

*"Youth with a disability"* means the same as defined in 34 CFR Section 361.5(58).

[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—77.5(84H) Referral and application for services.**

**77.5(1)** *General.*

*a.* The division has established and implemented standards for the prompt and equitable handling of referrals of individuals for vocational rehabilitation services, including referrals of individuals made through the one-stop service delivery systems under Section 121 of the Workforce Innovation and Opportunity Act. The standards include timelines for making good faith efforts to inform these individuals of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services.

*b.* A referral for a student with a disability requesting pre-ETS includes completion of the pre-ETS agreement.

*c.* Once an individual has submitted an application for vocational rehabilitation services, including applications made through common intake procedures in one-stop centers under Section 121 of the

Workforce Innovation and Opportunity Act, an eligibility determination is to be made within 60 days, unless exceptional and unforeseen circumstances beyond the control of the division preclude making an eligibility determination within 60 days and the division and the individual agree to a specific extension of time.

*d.* An individual is considered to have submitted an application when the individual or the individual's representative, as appropriate, has completed an agency application form including written consent; has completed a common intake application form in a one-stop center requesting vocational rehabilitation services or has otherwise requested services from the division; has provided to the division information necessary to initiate an assessment to determine eligibility and priority for services; and is available to complete the assessment process. The division ensures that its application forms are widely available throughout the state, particularly in the one-stop centers under Section 121 of the Workforce Innovation and Opportunity Act.

*e.* The division will refer applicants or eligible individuals to appropriate programs and service providers best suited to address the specific rehabilitation, independent living and employment needs of the individual with a disability. Individuals with the most significant disabilities who are working at subminimum wage in a nonintegrated setting are provided information about competitive integrated employment and support from the division, once known to the division, by qualified personnel and partners with the goal of assisting said individuals to pursue competitive integrated employment.

*f.* The division will inform those who decide against pursuit of employment that services may be requested at a later date if, at that time, they choose to pursue an employment outcome.

**77.5(2)** *Individuals who are blind.* Pursuant to rule 111—10.4(216B), individuals who meet the department for the blind (IDB) definition of "blind" are to be served primarily by IDB. Joint cases are served pursuant to any applicable memorandum of agreement executed between the division and IDB.

[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—77.6(84H) Eligibility for vocational rehabilitation services.**

**77.6(1)** *General.*

*a.* Eligibility for vocational rehabilitation services will be determined upon the basis of the following:

(1) A determination by a qualified rehabilitation counselor that the applicant has a physical or mental impairment documented by a qualified provider;

(2) A determination by a qualified rehabilitation counselor that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant; and

(3) A determination by a qualified vocational rehabilitation counselor that the applicant requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

*b.* For purposes of an assessment for determining eligibility and vocational rehabilitation needs, an individual is presumed to have a goal of an employment outcome. The applicant's completion of the application process for vocational rehabilitation services is sufficient evidence of the individual's intent to achieve an employment outcome. If at any time the individual decides to no longer pursue competitive integrated employment, the individual is no longer eligible for division services.

**77.6(2)** *Presumptions.* A presumption exists that the applicant who meets the eligibility provisions in subparagraphs 77.6(1)*"a"*(1) and 77.6(1)*"a"*(2) can benefit in terms of an employment outcome from the provision of vocational rehabilitation services. Any applicant who has been determined eligible for social security benefits under Title II or Title XVI of the Social Security Act based on the applicant's own disability is presumed eligible for vocational rehabilitation services and is considered an individual with a significant disability. IVRS staff are to verify the applicant's eligibility. Recipients who demonstrate eligibility under subrule 77.6(1) are to also demonstrate need in the IPE under subrule 77.6(3). Nothing in this rule automatically entitles a recipient of social security disability insurance or supplemental security income payments to any good or service provided by the division. Qualified IVRS personnel will identify and document the individual as a recipient of social security benefits based on disability, and the determination of impediments to employment and need for services will be documented by the qualified rehabilitation counselor.

**77.6(3)** *Standards for ineligibility.* If the division determines that an applicant is ineligible for vocational rehabilitation services or determines that an individual receiving services under an IPE is no longer eligible for services, including pre-ETS, the division will comply with 34 CFR Section 361.43.

**77.6(4)** *Residency.* There is no duration of residency requirement; however, an individual seeking services from the agency must be present and available for participation in services.

[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—77.7(84H) Other eligibility and service determinations.**

**77.7(1)** *Waiting list.*

*a.* As set forth in the Act and 34 CFR Section 361.36, if the division cannot serve all eligible individuals who apply, the division shall develop and maintain a waiting list for services based on significance of disability. The three categories of waiting lists are as follows, listed in order of priority to be served:

(1) Most significantly disabled;

(2) Significantly disabled; and

(3) Others eligible.

*b.* An individual's order of selection is determined by the waiting list and the date on which the individual applied for services from IVRS. All waiting lists are statewide in scope; no regional lists are to be maintained. Assessment of the significance of an applicant's disability is done during the process of determining eligibility but may continue after the individual has been placed on a waiting list. Individuals who do not meet the order of selection criteria will have access to services provided through information and referral. The division will provide the individual:

(1) A notice of the referral;

(2) Information identifying a specific point of contact at the agency to which the individual is referred; and

(3) Information and advice on the referral regarding the most suitable services to assist the individual.

*c.* Job retention services are available for those individuals who meet the requirements for those services.

**77.7(2)** *Options for individualized plan for employment (IPE) development.*

*a.* The division provides information on the available options for developing the IPE, including the option that an eligible individual, or as appropriate, the individual's representative, may develop all or part of the IPE without assistance from the division or other entity; or with assistance from:

(1) A qualified vocational rehabilitation counselor employed by IVRS;

(2) A qualified vocational rehabilitation counselor not employed by IVRS;

(3) A disability advocacy organization, such as the CAP or Disability Rights Iowa (DRI), or any other advocacy organization of the individual's choosing; or

(4) Resources other than those mentioned above, such as the individual's case manager or a representative of the division under the guidance of a division vocational rehabilitation counselor.

*b.* The IPE is not approved or put into practice until it is discussed and reviewed; amended, if applicable; and approved by the job candidate and the vocational rehabilitation counselor employed by the division.

*c.* There is no compensation for any expenses incurred while the IPE is developed with any entity not employed by the division.

*d.* If the job candidate is not on the division waiting list and needs some assessment services to develop the IPE, the job candidate is to discuss the needs in advance with the division counselor and obtain prior approval if financial assistance is needed from the division to pay for the assessment service.

*e.* For individuals entitled to benefits under Title II or XVI of the Social Security Act on the basis of a disability or blindness, the division must provide to the individual general information on additional supports and assistance for individuals with disabilities desiring to enter the workforce, including assistance with benefits planning.

*f.* The job candidate's signature on the IPE verifies the ticket assignment to the division unless otherwise directed by the job candidate.

*g.* The IPE implementation date begins on the date of the division counselor's signature.

**77.7(3)** *Content of the individualized plan for employment (IPE).* Each IPE will contain the content specified in 34 CFR Section 361.46.

No expenditures associated with the job candidate-developed plan are the responsibility of IVRS, unless agreed to and approved by the IVRS counselor. Written approval for services must be obtained prior to any IVRS financial obligation.

All IPE services are provided, unless amended and determined unnecessary. The division exercises its discretion in relation to the termination or amendment of the individual's IPE when, for any reason, it becomes evident that the IPE cannot be completed.

**77.7(4)** *Scope of services.*

*a.* Preemployment transition services (pre-ETS). In collaboration with the local educational agencies involved, the division ensures that pre-ETS are arranged and available to all students with disabilities, regardless of whether the student has applied or been determined eligible for vocational rehabilitation services, as defined in 34 CFR Section 361.5(c)(51). Pre-ETS include:

(1) Required activities. The division is to provide the following activities:

1. Job exploration counseling;

2. Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment in the community to the maximum extent possible;

3. Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;

4. Workplace readiness training to develop social skills and independent living; and

5. Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring (including peer mentoring from individuals with disabilities working in competitive integrated employment).

(2) Authorized activities. Funds available and remaining after the provision of the required activities may be used to improve the transition of students with disabilities from school to postsecondary education or an employment outcome by:

1. Implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;

2. Developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently; participate in postsecondary education experiences; and obtain, advance in and retain competitive integrated employment;

3. Providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;

4. Disseminating information about innovative, effective, and efficient approaches to achieve the goals of this rule;

5. Coordinating activities with transition services provided by local educational agencies under the IDEA;

6. Applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel in order to better achieve the goals of this rule;

7. Developing model transition demonstration projects;

8. Establishing or supporting multistate or regional partnerships involving states, local educational agencies, designated state units, developmental disability agencies, private businesses, or other participants to achieve the goals of this rule; and

9. Disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved and underserved populations.

(3) Preemployment transition coordination. Each local office of a designated state unit must carry out responsibilities consisting of:

1. Attending individualized education program meetings for students with disabilities, when invited;

2. Working with the local workforce development boards, one-stop centers, and employers to develop work opportunities for students with disabilities, including internships, summer employment and other employment opportunities available throughout the school year, and apprenticeships;

3. Working with schools, including those carrying out activities under Section 614(d) of the IDEA, to coordinate and ensure the provision of preemployment transition services under this rule; and

4. When invited, attending person-centered planning meetings for individuals receiving services under Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.).

(4) Completion of the pre-ETS agreement outlines the agreed-upon preemployment transition services needed by the student with a disability. When it is necessary to purchase these services, written prior approval must be obtained from the division.

Once an individual applies for services, the division may provide certain services (e.g., assessments for the determination of eligibility and plan development). The preemployment transition services listed above may continue for students with disabilities (as applicable).

*b.* Vocational services for eligible individuals not on a waiting list are services described in an IPE and are necessary to assist the eligible individual in preparing for, obtaining, retaining, regaining, or advancing in employment if the failure to advance is due to the disability, consistent with informed choice. Funding for such services is provided in accordance with the division policies. The services include:

(1) Assessment for determining services needed to achieve competitive integrated employment;

(2) Counseling and guidance, which means career counseling to provide information and support services to assist the eligible individual in making informed choices;

(3) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce development system, and through agreements with other organizations and agencies as well as advising individuals about the client assistance program;

(4) Job-related services to facilitate the preparation for, obtaining of, and retaining of employment to include job search, job development, job placement assistance, job retention services, follow-up services and follow-along if necessary and required under the IPE;

(5) Vocational and other training services, including personal and vocational adjustment training; advanced training in, but not limited to, a field of science, technology, engineering, mathematics (including computer science), medicine, law, or business; books, tools, and other training materials, except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing or any other postsecondary education institution) may be paid for with IVRS funds unless maximum efforts have been made by the designated state unit and the individual to secure grant assistance in whole or in part from other sources to pay for that training, in accordance with the definition of that term in 34 CFR Section 361.48(b)(6);

(6) Physical and mental treatment may be provided to the extent that financial support is not readily available from another source other than IVRS, such as health insurance of the individual or a comparable service or benefit, as defined in 34 CFR Section 361.5(c)(39), and said treatment is essential to the progression of the individual to achieve the competitive integrated employment outcome according to the following provisions:

1. The service is necessary for the job candidate’s satisfactory occupational adjustment;

2. The condition causing the disability is relatively stable or slowly progressive;

3. The condition is of a nature that treatment may be expected to remove, arrest, or substantially reduce the disability within a reasonable length of time;

4. The prognosis for life and employability is favorable.

(7) Maintenance services as defined in 34 CFR Section 361.5(c)(34), to the extent that the costs of maintenance shall not exceed the amount of increased expenses that the rehabilitation causes for the job candidate or the job candidate’s family. Maintenance is not intended to provide relief from poverty or abject living conditions. Guidance regarding the financial support of maintenance is available from the division’s policy manual;

(8) Transportation in connection with the provision of any vocational rehabilitation service and as defined in 34 CFR Section 361.5(c)(57), to the extent that when necessary to enable an applicant or a job candidate to participate in or receive the benefits of other vocational rehabilitation services, travel and related expenses, including expenses for training in the use of public transportation vehicles and systems,

may be provided by the division. Transportation services may include the use of private or commercial conveyances (such as private automobile or van, public taxi, bus, ambulance, train, or plane) or the use of public transportation and coordination with a regional transit agency;

(9) Vocational rehabilitation services to family members, as defined in 34 CFR Section 361.5(c)(23), of an applicant or eligible individual if necessary to enable the applicant or eligible individual to achieve an employment outcome;

(10) Interpreter services, including sign language and oral interpreter services, for individuals who are deaf or hard of hearing and tactile interpreting services;

(11) Supported employment services as defined in 34 CFR Section 361.5(c)(42);

(12) Occupational licenses, tools, equipment, initial stocks and supplies;

(13) Rehabilitation technology as defined in 34 CFR Section 361.5(c)(45), including vehicular modification, telecommunications, sensory, and other technological aids and devices;

(14) Transition services for a student or youth with a disability that facilitate the transition from school to postsecondary life, such as achievement of an employment outcome in competitive integrated employment, or preemployment transition services for students;

(15) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent those resources are authorized to be provided through the statewide workforce development system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(16) Customized employment as defined in 34 CFR Section 361.5(c)(11); and

(17) Other goods and services determined necessary for the individual with a disability to achieve an employment outcome.

**77.7(5)** *Specific services requiring financial assessment.*

*a.* Financial need must be established prior to the provision of certain services at the division's expense and is evidenced by use of the financial inventory needs tool utilized by the division. No financial needs test will occur for the following services:

(1) Assessment for eligibility and priority of services and determining vocational rehabilitation needs under 34 CFR Section 361.48(b)(2);

(2) Vocational rehabilitation counseling and guidance under 34 CFR Section 361.48(b)(3);

(3) Referral and other services under 34 CFR Section 361.48(b)(4);

(4) Job-related services under 34 CFR Section 361.48(b)(12);

(5) Personal assistance services under 34 CFR Section 361.48(b)(14); and

(6) Any auxiliary aid or service (e.g., interpreter services under 34 CFR Section 361.48(b)(10) or reader services under 34 CFR Section 361.48(b)(11)) that an individual with a disability requires.

*b.* Recipients of SSDI/SSI and foster care youth are not subject to a financial needs test but must demonstrate eligibility under subrule 77.6(1) and rule 871—77.5(84H), as well as demonstrate need in the IPE.

(1) For the determination of financial need, the individual and the individual's family (when applicable) are required to provide information regarding all family income from any source that may be applied toward the cost of rehabilitation services, other than those services mentioned above, where the financial needs test does not apply. Family is considered to be any individuals who are financially responsible for the support of the job candidate, regardless of whether they reside in the same or separate households. A comparable services and benefits search is required for some services. The division shall not pay for more than the balance of the cost of services minus comparable services and benefits for the individual's documented contribution. When an individual refuses to supply information for the financial needs test, the individual assumes 100 percent responsibility for the costs of the rehabilitation.

(2) The division shall observe the following policies in deciding financial need based upon the findings:

1. All services requiring the determination of financial need are provided on the basis of supplementing the resources of the individual or of those responsible for the individual.

2. A division supervisor may grant an exception in cases where the individual's disability caused, or is directly related to, financial need and where all other sources of money have been exhausted by the individual and the guardian of the individual (when applicable).

3. Consideration will be given to the individual's responsibility for the immediate needs and maintenance of the individual's dependents, and the individual is expected to reserve sufficient funds to meet the individual's family obligations and to provide for the family's future care, education and medical expenses.

4. Income up to a reasonable amount should be considered and determined based on the federal poverty guidelines associated with family size, income, and exclusions.

5. General assistance from state or federal sources is disregarded as a resource unless the assistance is a grant award for postsecondary training.

6. Grants and scholarships based on merit, while not required to be searched for as a comparable benefit, may be considered as part of the determination of financial support of a plan when a request is beyond the basic support for college. Public grants and institutional grants or scholarships not based on merit are considered a considerable benefit.

7. The division does not fund services for which another entity is responsible.

8. The division seeks and purchases the most economical goods (items/models) or services that meet the individual's vocational needs.

9. Goods and services are only authorized to those facilities and entities qualified and equipped to provide such goods and services.

**77.7(6)** *Maximum rates of payment to training facilities.* In no case shall the amount paid to a training facility exceed the rate published, and in the case of facilities not having published rates, the amount paid to the facility is not to exceed the amount paid to the facility by other public agencies for similar services. The division will maintain information necessary to justify the rates of payment made to training facilities.

**77.7(7)** *Areas in which exceptions are unavailable.* Pursuant to federal law, an exception will not be granted for any requirements that do not allow for such an exception (e.g., eligibility, mandatory contents of the individualized plan for employment).

**77.7(8)** *Exceptions to duration of services.* As required by the Act and 34 CFR Section 361.50(d), the division will have a method of allowing for exceptions to its rules regarding the duration of services. In order to exceed the duration of service as defined in the IPE, a job candidate must follow through on the agreed-upon IPE and related activities and keep the division informed of the job candidate's progress.

[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—77.8(84H) Purchasing principles for individual-specific purposes.**

**77.8(1)** The division will follow the administrative rules for purchasing goods and services promulgated by the department of administrative services.

**77.8(2)** The division shall purchase only those items or models that allow for a job candidate to meet the job candidate's vocational objective. The division shall not pay for additional features that exceed the requirements to meet a job candidate's vocational objective or that serve primarily to enhance the job candidate's personal life.

**77.8(3)** The division shall seek out and purchase the most economical item or model that meets the job candidate's vocational needs.

**77.8(4)** The division shall encourage all job candidates to develop strategies and savings programs to pay for replacement items/models or upgrades.

**77.8(5)** Items purchased for a job candidate become the property of the job candidate but may be repossessed by the division, subject to reimbursement to the job candidate for the job candidate's share of the purchase price, if the job candidate does not attain employment prior to case closure.

**77.8(6)** The division shall inform the job candidate that any change to planned purchases must be discussed and approved jointly before a purchase is made.

**77.8(7)** The division will not participate in the modification to property not owned by the job candidate or the job candidate's family without a division-approved exception to policy.

**77.8(8)** When considering what item or model to purchase for a specific job candidate, the division shall in all cases consider the following factors:

*a.* Whether the item or model is required for the job candidate to be able to perform the essential functions of the job candidate's job.

*b.* Whether other parties or entities may be responsible for providing or contributing to the costs of an item.

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**871—77.9(84H) Review, mediation and appeal processes.** At all times throughout the rehabilitation process, individuals accessing any IVRS services shall be informed of the right to appeal or mediation and the procedures by which to file. If an individual is dissatisfied with any agency decision that directly affects the individual, the individual or designated representative may appeal that decision or request mediation. The term "appellant" shall be used to indicate the individual or designated representative who initiates an appeal. The appellant may initiate the appeal process either by calling a counselor or supervisor or by filing the appropriate division appeal form, available from any counselor or supervisor of the division. If the appeal process or mediation is initiated by telephone, the counselor or supervisor who received the call is to complete the appeal form to the best of that person's ability with information from the appellant. The division shall accept as an appeal or request for mediation a written letter, facsimile, or electronic mail that indicates that the applicant or job candidate desires to appeal or seek mediation. An appeal or mediation request must be filed within 90 days of notification of the disputed decision. Once the appeal form or request for mediation has been filed with the division administrator, a hearing is to be held before an IHO or mediator within the next 60 days unless an extension of time is mutually agreed upon or one of the parties shows good cause for an extension or one of the parties declines mediation. The appellant may request that the appeal go directly to impartial hearing, but the appellant shall be offered the opportunity for a supervisor review or mediation. The appellant may request assistance with an appeal or mediation from the Iowa client assistance program (ICAP) at any time in the appeal process.

**77.9(1)** *Supervisor review.* As a first step, the appellant shall be advised that a supervisor review of the counselor's decision may be requested by notifying the counselor or supervisor in person, by telephone or by letter of the decision to appeal. If the supervisor has been involved in decisions in the case to the extent that the supervisor cannot render a fair and impartial decision or if the supervisor is not available to complete the review in a timely manner, the appeal and case file shall be forwarded to the bureau chief for review. The appellant is not required to request supervisor review as a prerequisite for appeal before an IHO; however, if a supervisor review is requested, the following steps shall be observed:

*a.* Upon receipt of a request for supervisor review, the supervisor shall notify all appropriate parties of the date and nature of the appeal; examine case file documentation; discuss the issues and reasons for the decision with the immediate counselor and other counselors who may have been previously involved with the case or issue; and, if necessary, meet with any or all parties to discuss the dispute.

*b.* The supervisor shall have ten working days from receipt of the request for supervisor review to decide the issue and notify the appellant in writing. A copy of the supervisor's decision shall be sent to all appropriate parties.

*c.* If the supervisor's decision is adverse to the appellant, the copy of the written decision given to the appellant shall include further appeal procedures, including notification that the appellant has ten days from the date of the letter to file further appeal.

*d.* As an alternative to, but not to the exclusion of, filing for further appeal, the appellant may request mediation of the supervisor's decision or review by the chief of the rehabilitation services bureau.

**77.9(2)** *Mediation.* Regardless of whether a supervisor review is requested, an appellant may use the mediation procedures set forth in 34 CFR Section 361.57(d).

**77.9(3)** *Hearing before an impartial hearing officer.* Regardless of whether the appellant has used supervisor review or mediation or both, if the appellant requests a hearing before an IHO, the following provisions apply:

*a.* The division shall appoint the IHO from the pool of impartial hearing officers with whom the division has contracts. The IHO shall be assigned on a random basis or by agreement between the administrator of the division and the appellant.

*b.* The hearing shall be held within 20 days of the receipt of the appointment of the IHO. A written decision shall be rendered and given to the parties by the IHO within 30 days after completion of the

hearing. Either or both of these time frames may be extended by mutual agreement of the parties or by a showing of good cause by one party.

*c.* The appellant shall be informed that the filing of an appeal confers consent for the release of the case file information to the IHO. The IHO shall have access to the case file or a copy thereof at any time following acceptance of the appointment to hear the case.

*d.* Within five working days after appointment, the IHO shall notify both parties in writing of the following:

(1) The role of the IHO;

(2) The IHO's understanding of the reasons for the appeal and the requested resolution;

(3) The date, time, and place for the hearing, which shall be accessible and located as advantageously as possible for both parties but more so for the appellant;

(4) The availability of the case file for review and copying in a vocational rehabilitation office prior to the hearing and how to arrange for the same;

(5) That the hearing shall be closed to the public unless the appellant specifically requests an open hearing;

(6) That the appellant may present evidence and information personally, may call witnesses, may be represented by counsel or other appropriate advocate at the appellant's expense, and may examine all witnesses and other relevant sources of information and evidence;

(7) The availability to the appellant of the ICAP for possible assistance;

(8) Information about the amount of time it will take to complete the hearing process;

(9) The possibility of reimbursement of necessary travel and related expenses; and

(10) The availability of interpreter and reader services for appellants not proficient in the English language and those who are deaf or hard of hearing and the availability of transportation or attendant services for those appellants requiring such assistance.

*e.* Existing division services provided to an appellant shall not be suspended, reduced, or terminated pending the decision of the IHO, unless so requested by the appellant.

*f.* The IHO shall provide a full written decision, including the findings of fact and grounds for the decision. The appellant or the division may request administrative review, and the IHO decision is submitted to the administrator of the division. Both parties may provide additional evidence not heard at the hearing for consideration for the administrative review. If no additional evidence is presented, the IHO decision stands. Unless either party chooses to seek judicial review pursuant to Iowa Code chapter 17A, the decision of the IHO is final. If judicial review is sought after administrative review, the IHO's decision shall be implemented pending the outcome of the judicial review.

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**871—77.10(84H) Case record.** The division has the authority to collect and maintain records on individuals under the Act, the state plan for vocational rehabilitation services, and the Social Security Act. Under this authority, the division maintains a record for each case. The case record contains pertinent case information as defined in division policy including, as a minimum, the basis for determination of eligibility, the basis justifying the plan of services and the reason for closing the case, together with a justification of the closure and supporting documents. Case information is contained in the agency's case management system and a hard copy file. A combination of these data collections instruments constitutes the official case record. The hard copy files are retained for a minimum of four years, but there are instances when a case may be stored longer based on the services received.

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**871—77.11(84H) Personally identifiable information.** This rule describes the nature and extent of the personally identifiable information collected, maintained, and retrieved by the division by personal identifier in record systems as defined herein. The record systems maintained by the division include the following:

**77.11(1)** *Personnel records.* Personnel records contain information relating to initial application, job performance and evaluation, reprimands, grievances, notes from and reports of investigations of

allegations related to improper employee behavior, and reports of hearings and outcomes of reprimands and grievances.

**77.11(2)** *Job candidate case records.* An individual file is maintained for each person who has been referred to or has applied for the services of the division, as described in rule 871—77.10(84H). The file contains a variety of personal information about the job candidate, which is used in the establishment of eligibility and the provision of agency services. All information is personally identifiable and is confidential.

**77.11(3)** *Job candidate service record computer database.* The job candidate service record computer database contains personal data items about individual job candidates. Data identifying a job candidate is confidential. Data in the aggregate is not personally identifiable and thus is not confidential.

**77.11(4)** *Vendor purchase records.* Vendor purchase records are records of purchases of goods or services made for the benefit of job candidates. If a record contains the job candidate's name or other personal identifiers, the record is confidential. Lists of non-job candidate vendors, services purchased, and the costs of those services are not confidential when retrieved from a data processing system without personally identifiable information.

**77.11(5)** *Records and transcripts of hearings or client appeals.* Records and transcripts of hearings or client appeals contain personally identifiable information about a client's case, appeal from or for some action, and the decision that has been rendered. The personally identifiable information is confidential. Some of the information is maintained in an index provided for in Iowa Code section 17A.3(1)*"d."* Information is available after confidential personally identifiable information is deleted.

**77.11(6)** *All computer databases of client and applicant names and other identifiers.* The data processing system contains client status records organized by a variety of personal identifiers. These records are confidential as long as any personally identifiable information is present.

**77.11(7)** *All computer-generated reports that contain personally identifiable information.* The division may choose to draw or generate from a data processing system reports that contain information or an identifier that would allow the identification of an individual client or clients. This material is for internal division use only and is confidential.

**77.11(8)** *Personally identifiable information and acceptance of federal requirements.* Pursuant to Iowa Code section 84H.1, the state of Iowa accepts the social security system rules for the disability determination program of the division. Failure to follow the provisions of the Act can result in the loss of federal funds. All personally identifiable information is confidential and may be released only with informed written consent, except as permitted by federal law. Any contrary provision in Iowa Code chapter 22 must be waived in order for the state to receive federal funds, services, and essential information for the administration of vocational rehabilitation services.

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**871—77.12(84H) Other groups of records routinely available for public inspection.** This rule describes groups of records maintained by the division other than record systems. These records are routinely available to the public, with the exception of parts of the records that contain confidential information. This rule generally describes the nature of the records, the type of information contained therein, and whether the records are confidential in whole or in part.

**77.12(1)** *Rulemaking.* Rulemaking records, including public comments on proposed rules, are not confidential.

**77.12(2)** *Council and commission records.* Agendas, minutes, and materials presented to any council or commission required under the Act are available to the public with the exception of those records that are exempt from disclosure under Iowa Code section 21.5. Council and commission records are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319.

**77.12(3)** *Publications.* News releases, annual reports, project reports, agency newsletters, and other publications are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319. Brochures describing various division programs are also available at local offices of the division.

**77.12(4)** *Statistical reports.* Periodic reports of statistical information on expenditures, numbers and types of case closures, and aggregate data on various client characteristics are compiled as needed for agency administration or as required by the federal funding source and are available to the public.

**77.12(5)** *Grants.* Records of persons receiving grants from division services are available through the main office of the division. Grant records contain information about grantees and may contain information about employees of a grantee that has been collected pursuant to federal requirements.

**77.12(6)** *Published materials.* The division uses many legal and technical publications, which may be inspected by the public upon request. Some of these materials may be protected by copyright law.

**77.12(7)** *Policy manuals.* Manuals containing the policies and procedures for programs administered by the division are available on the division website. Printed copies of all or some of the documents are available at the cost of production and handling. Requests should be addressed to Vocational Rehabilitation Services Division, 510 E. 12th Street, Des Moines, Iowa 50319.

**77.12(8)** *Operating expense records.* The division maintains records of the expense of operation of the division, including records related to office rent, employee travel expenses, and costs of supplies and postage, all of which are available to the public.

**77.12(9)** *Training records.* Lists of training programs, the persons approved to attend, and associated costs are maintained in these records, which are available to the public.

**77.12(10)** *Other records.* The division maintains records of various sources not previously mentioned in this rule that are exempted from disclosure by law.

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**871—77.13(84H) State rehabilitation council.**

**77.13(1)** *Composition.* The state rehabilitation council's composition is set forth in 34 CFR Section 361.17(b). The appointing authority is to select members of the council after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the appointing authority must consider, to the greatest extent practicable, the extent to which minority populations are represented on the council. A majority of members must be individuals with disabilities who meet the requirements of 34 CFR Section 361.5(c)(28) and are not employed by the designated state unit.

**77.13(2)** *Chairperson.* The chairperson must be selected by the members of the council from among the voting members of the council.

**77.13(3)** *Terms.* Each member of the council shall be appointed for a term of no more than three years. Each member of the council, other than the representative of the client assistance program, shall serve for no more than two consecutive full terms. A member appointed to fill a vacancy occurring prior to the end of the term for which the predecessor was appointed must be appointed for the remainder of the predecessor's term and may serve one additional three-year term. The terms of service of the members initially appointed is to be for a varied number of years to ensure that terms expire on a staggered basis.

**77.13(4)** *Vacancies.* The governor will fill a vacancy in council membership.

**77.13(5)** *Functions.* The council, after consulting with the state workforce development board, performs the functions set forth in 34 CFR Section 361.17(h).

**77.13(6)** *Meetings.* The council must convene at least four meetings a year. The meetings must be publicly announced, open, and accessible to the general public, including individuals with disabilities, unless there is a valid reason for an executive session. The council's meetings are subject to Iowa Code chapter 21, the open meetings law.

**77.13(7)** *Forums or hearings.* The council shall conduct forums or hearings, as appropriate, that are publicly announced, open, and accessible to the public, including individuals with disabilities.

**77.13(8)** *Conflict of interest.* No member of the council may cast a vote on any matter that would provide direct financial benefit to the member or the member's organization or otherwise give the appearance of a conflict of interest under state law.

**77.13(9)** *Specific implementation clause.* This rule is intended to implement 34 CFR Sections 361.16 and 361.17.

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**871—77.14(84H) Iowa self-employment program: purpose.** The division of vocational rehabilitation services works in collaboration with the department for the blind to administer the Iowa self-employment (ISE) program. The purpose of the program is to provide business development funds in the form of

technical assistance (up to $10,000) and financial assistance (up to $10,000) to qualified Iowans with disabilities who start, expand, or acquire a business within the state of Iowa. Actual assistance is based on the requirements of the business, not to exceed the technical assistance and financial assistance limits.
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**871—77.15(84H) Program requirements.**

**77.15(1)** Clients of the division or the department for the blind may apply for the program.

**77.15(2)** All of the following conditions are also applicable:

*a.* The division may limit or deny ISE assistance to an applicant who has previously received educational or training equipment from the division through another rehabilitation program when such equipment could be used in the applicant's proposed business.

*b.* Any equipment purchased for the applicant under this program that is no longer used by the applicant may be returned to the division, at the discretion of the division.

*c.* An applicant must demonstrate that the applicant has at least 51 percent ownership in a for-profit business that is actively owned, operated, and managed in Iowa.

*d.* Recommendation for and approval of financial assistance are based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested.

*e.* To receive financial support from the ISE program, the applicant's business plan feasibility study is to result in self-sufficiency for the applicant as measured by earnings that equal or exceed 80 percent of substantial gainful activity.

*f.* The division cannot support the purchase of real estate or improvements to real estate.

*g.* The division cannot provide funding to be used as a cash infusion, for personal or business loan repayments, or for personal or business credit card debt.

*h.* The division may deny ISE assistance to an applicant who desires to start, expand, or acquire any of the following types of businesses:

(1) A hobby or similar activity that does not produce income at the level required for self-sufficiency;

(2) A business venture that is speculative in nature or considered high risk by the Better Business Bureau or similar organization;

(3) A business registered with the federal Internal Revenue Service as a Section 501(c)(3) entity or other entity set up deliberately to be not for profit;

(4) A business that is not fully compliant with all local, state, and federal zoning requirements and all other applicable local, state, and federal requirements;

(5) A multitiered marketing business.

[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—77.16(84H) Application procedure.**

**77.16(1)** *Application.* Application materials for the program are available from the division and the department for the blind.

**77.16(2)** *Submittal.* Completed applications will be submitted to a counselor employed by the division or the department for the blind.

**77.16(3)** *Review.* Applications will be forwarded to a business development specialist employed by the division for review. Approval of technical assistance funding is based upon the results of a business plan feasibility study. If the application is for financial assistance only, a business plan feasibility study will be required at the time of submission of the application. Approval of financial assistance funding is based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested.

**77.16(4)** *Funding.* Before the division will provide funding for a small business, the job candidate must complete an in-depth study about the business the job candidate intends to start and demonstrate that the business is feasible.

**77.16(5)** *Appeal.* If an application is denied, an applicant may appeal the decision to the division or the department for the blind. An appeal is governed by the appeal processes of the division or the department for the blind.

[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—77.17(84H) Award of technical assistance funds.**

**77.17(1)** *Awards.* Technical assistance funds may be used for specialized consulting services as determined necessary by the counselor, the business development specialist, and the job candidate. Technical assistance funds may be awarded, based on need, up to a maximum of $10,000 per applicant. Specialized technical assistance may include, but is not limited to, engineering, legal, accounting, and computer services and other consulting services that require specialized education and training.

**77.17(2)** *Technical assistance.* When technical assistance is needed for specialized services beyond the expertise of the business development specialist, technical assistance will be provided to assist the job candidate.

**77.17(3)** *Technical assistance contracts.* The division shall negotiate contracts with qualified consultants for delivery of services to an applicant if specialized services are deemed necessary. The contracts are to state hourly fees for services, the type of service to be provided, and a timeline for delivery of services. Authorization of payment will be made by a counselor employed by the division or the department for the blind based upon the negotiated rate as noted in the contract. A copy of each contract will be filed with the division.

**77.17(4)** *Consultants.* Applicants will be provided a list of qualified business consultants by the business development specialist if specialized consultation services are necessary. The selection of the consultant(s) is the responsibility of the applicant.

**77.17(5)** *Case management.* The business development specialist or counselor will be available as needed for direct consultation to each applicant to ensure that quality services for business planning are provided in a timely manner.

[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—77.18(84H) Business plan feasibility study procedure.** Information and materials are available from the division and the department for the blind. The job candidate is to submit the job candidate's business plan feasibility study to the job candidate's counselor if the study is completed at the time application is made or to the business development specialist if the business plan feasibility study is completed after application approval. The business development specialist is available to guide and assist in the analysis of the feasibility study.

[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

**871—77.19(84H) Award of financial assistance funds.**

**77.19(1)** *Awards.* Following the business development specialist's review of the business plan feasibility study, the business development specialist will issue a recommendation to support or not to support the proposed business venture. The counselor is to make a decision regarding approval or denial of the recommendation. If the plan is approved, the job candidate and counselor will review conditions of the financial assistance award and sign the appropriate forms of acknowledgment.

*a.* Financial assistance funds may be awarded, based on need, up to $10,000 after approval of a business plan feasibility study and evidence of business need or evidence of business progression. Before receiving financial assistance, the job candidate must demonstrate a dollar-for-dollar match based on the amount of funding needed. The match may be provided through approved existing business assets, cash, conventional financing or other approved sources.

*b.* Financial assistance funds may be approved for, but are not limited to, equipment, tools, printing of marketing materials, advertising, rent (up to six months), direct-mail postage, raw materials, inventory, insurance (up to six months), and other approved start-up, expansion, or acquisition costs.

**77.19(2)** *Award process.* The amount that may be recommended by the business development specialist and approved by the counselor will be provided when there is a need. Recipients of financial assistance must demonstrate ongoing cooperation by providing the business development specialist with financial information needed to assess business progress before additional funds are expended.

**77.19(3)** *Financial assistance contracts.* Contracts for financial assistance funds are the responsibility of the division and will be consistent with the authorized use of Title I vocational rehabilitation funds and policy.

**77.19(4)** *Vendors.* Procurement of goods or services will follow procedures established by the department of administrative services. The type of goods or services to be obtained, as well as a timeline for delivery of such, are to be stated by the vendor and agreed upon by the division. Authorization for goods or services shall be made by a counselor employed by the division or the department for the blind based upon the negotiated rate and terms as noted in the contract. A copy of each contract is to be filed with the division. Approval for payment of authorized goods or services is to be made by authorized division personnel.

[**ARC 7751C**, IAB 4/3/24, effective 5/8/24; Editorial change: IAC Supplement 5/14/25]

These rules are intended to implement Iowa Code chapter 84H, the federal Rehabilitation Act of 1973, and the federal Social Security Act (42 U.S.C. Section 301 et seq.).

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Title V
EMPLOYMENT AGENCY LICENSING

# CHAPTER 78
# EMPLOYMENT AGENCY LICENSING

[Prior to 9/24/86, Employment Agency Licensing Commissioner[350] Chs 1 to 10]
[Prior to 10/21/98, see 347—Ch 38]
[Prior to 6/26/24, see Labor Services Division[875] Ch 38]
[Prior to 5/14/25, see Workforce Development Board, State[877] Ch 34]

Chapter rescission date pursuant to Iowa Code section 17A.7: 12/17/30

**871—78.1(84I) Definitions.** In addition to the definitions found in Iowa Code chapter 84I, the following definition applies:

*"Agency"* means employment agency.

[**ARC 9719C**, IAB 11/12/25, effective 12/17/25]

**871—78.2(84I) Application and license.**

**78.2(1)** *Application.* An application for a license must be made in writing to the director on the form provided by the director. The applicant shall also complete and submit the employee-paid fee schedule form provided by the director, the $75 nonrefundable fee, and all contract forms to be signed by an employee. The application shall also be accompanied by a surety company bond in the sum of $30,000, to be approved by the director and conditioned to pay any damages that may accrue to any person due to a wrongful act or violation of law on the part of the applicant in the conduct of business.

**78.2(2)** *Name.* No agency shall use any name, symbol or abbreviation deceptively similar to or reasonably likely to be confused with the name used by an existing agency, any governmental unit, or any nonprofit organization.

**78.2(3)** *Change in officers.* A change in the name of any person required to be reported on the application under Iowa Code chapter 84I shall be forwarded to the director within ten days of the change.

**78.2(4)** *Change in address.* The agency shall notify the director of any change of address prior to the change.

**78.2(5)** *Multiple locations.* A separate license shall be required for each separate office location operated by an agency.

**78.2(6)** *Nontransferable.* A license is nontransferable.

[**ARC 9719C**, IAB 11/12/25, effective 12/17/25]

**871—78.3(84I) Nonemployment agency activity.** The following activities do not require an employment agency license:

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

[**ARC 9719C**, IAB 11/12/25, effective 12/17/25]

**871—78.4(84I) Complaints.** Written complaints by an aggrieved party will be investigated. The director will notify the aggrieved party in writing of the outcome of the investigation. The director may take any appropriate action, including denial, revocation, reprimand, and suspension.

[**ARC 9719C**, IAB 11/12/25, effective 12/17/25]

**871—78.5(17A,84I,252J) Denials, revocations, reprimands and suspensions.**

**78.5(1)** The director may deny, revoke, or suspend a license or issue a reprimand when the director finds that any of the following conditions exist:

*a.* The license applicant has violated any of the provisions of Iowa Code chapter 84I or the rules of this chapter;

*b.* The child support recovery unit of the department of health and human services has issued a certificate of noncompliance to an employment agency; or

*c.* The license application or its required attachments are inaccurate, incomplete or otherwise insufficient.

**78.5(2)** Contested cases shall be governed by Iowa Code chapter 17A and 481—Chapter 10.

[**ARC 9719C**, IAB 11/12/25, effective 12/17/25]

**871—78.6(84I) Permissible fees charged by agency.**

**78.6(1)** The total amount charged to any employee in any form by an agency shall not exceed 15 percent of the employee's gross earnings from that employer for which the agency procured the job in any pay period for a period of time not to exceed the first 12 months from the date of employment.

**78.6(2)** Fees due the agency are payable as earned; however, the employee may knowingly agree to pay the fee in advance, with the full understanding that the employee is not required to do so, and the agency guarantees to refund any amounts in excess of 15 percent of actual gross earnings, when ascertained.

**78.6(3)** No agency or any person connected therewith shall require any employee to execute any negotiable instrument, assignment of earnings, or note except for that amount of fee that is past due to the agency.

**78.6(4)** Each agency shall keep conspicuously posted at its place of business a copy of the agency's schedule of fees on file with the director. The schedules shall be printed in not less than 8-point type.

**78.6(5)** Each employee who has paid the fee in advance must be notified at the employee's last-known address by the agency at the time the employee makes the final payment on the fee that the employee may have a refund due if the employee has paid more than 15 percent of the gross earnings of the employee's first year of employment.

[**ARC 9719C**, IAB 11/12/25, effective 12/17/25]

**871—78.7** Reserved.

**871—78.8(84I) Contracts and fee schedules.**

**78.8(1)** *Schedules furnished.* Any schedule of fees to be charged by an agency to employees shall be furnished to all employees at the time of making an application with the agency.

**78.8(2)** *Required content of all contracts.*

*a.* Contracts and fee schedules shall not contain smaller than 8-point type.

*b.* Contracts and fee schedules shall contain no ambiguous, false or misleading information.

*c.* All contracts and fee schedules must clearly state that the agency is licensed by Iowa Workforce Development and that inquiries may be made via mail to Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319, or by telephone to 1.866.239.0843.

**78.8(3)** *Additional required content for employee-paid fee contracts.*

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

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

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

[**ARC 9719C**, IAB 11/12/25, effective 12/17/25]

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