

CHAPTER 9
IPERS APPEALS

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

486—9.1(10A,97B) Appeals.

9.1(1) *Form and time of appeal.* Any party aggrieved by a decision of an administrative law judge of the department of inspections and appeals may file an appeal with the employment appeal board. The appeal must be filed within 30 days of the date of the decision of the administrative law judge.

9.1(2) *Taking the appeal.* The appeal shall be deemed filed if by U.S. Postal Service, the date of the postmark or date of meter mark if no postmark; if by facsimile transmission, the date of the fax transmission; if by any other method, the date received by the employment appeal board.

9.1(3) *Notice to agency.* Upon receipt of the appeal, the employment appeal board shall notify the department of personnel, IPERS division, of the appeal and shall provide a copy of the appeal to the department of personnel.

9.1(4) *Hearing.* The employment appeal board shall not conduct a new hearing on the matter on review. However, the board shall provide the parties with a transcript of the hearing held before the administrative law judge and shall provide the parties time to file written briefs on the issues.

9.1(5) *Continuances.* The parties will be allowed reasonable continuances for submission of written briefs and arguments. Requests for second continuances must be justified by good cause.

9.1(6) *Additional evidence.* The employment appeal board will not admit nor consider any new or additional evidence which was not submitted to the administrative law judge, unless the party submitting the new or additional evidence establishes good cause for not submitting the evidence at the evidentiary hearing.

9.1(7) *Decision.* The decision of the employment appeal board is the final agency decision for purposes of judicial review. The decision of the board becomes final 30 days after the date of the decision and not further reviewable unless a petition for judicial review is filed pursuant to Iowa Code section 17A.19.

The party aggrieved by a decision of the employment appeal board may file an application for rehearing before the employment appeal board within 20 days of the date of the board's decision. If an application for rehearing is filed, the date for judicial review is delayed until either 20 days from the date of filing the application for rehearing if no action has been taken by the board or 30 days from the date of denial by the board or deemed denied by operation of law.

This rule is intended to implement Iowa Code section 97B.27.

[Filed 6/29/98, Notice 4/8/98—published 7/29/98, effective 9/2/98]