

CHAPTER 14 ARBITRATORS

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

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

621—14.2(20) Definitions.

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

“Arbitrator” means a person serving as a neutral decision-maker in interest arbitrations, grievance arbitrations, or teacher termination adjudications.

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

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

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

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

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

“Teacher termination adjudication” means the proceedings contemplated by Iowa Code section 279.17.

“Teacher termination adjudicator” means a person serving as a neutral decision-maker in a teacher termination adjudication.

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

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

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

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

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

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

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621—14.5(20) Arbitrator roster.

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

- a. Interest arbitrators;
- b. Grievance arbitrators; and
- c. Teacher termination adjudicators.

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

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

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

- a. For listing on the roster as an interest arbitrator:
 - (1) Good verbal and written communication skills;
 - (2) The ability and willingness to travel throughout Iowa and to work prolonged and unusual hours;
 - (3) Knowledge of Iowa Code chapter 20, the agency's rules, and principles and practices of contracts, public finance, and labor relations; and
 - (4) The ability to conduct evidentiary hearings in a fair and impartial manner, develop an accurate record, and prepare and issue clear, reasoned and timely awards. For purposes of this subparagraph, "timely" means within 15 days after the interest arbitration hearing pursuant to Iowa Code section 20.22(9) or in a time frame established by an impasse agreement entered into pursuant to Iowa Code section 20.19.
- b. For listing on the roster as a grievance arbitrator:
 - (1) Good verbal and written communication skills;
 - (2) The ability and willingness to travel throughout Iowa and to work prolonged and unusual hours;
 - (3) Knowledge of arbitral principles and practices, contracts, and labor relations; and
 - (4) The ability to conduct evidentiary hearings in a fair and impartial manner, develop an accurate record, and prepare and issue clear, reasoned and timely awards. For purposes of this subparagraph, "timely" means within the time frame established by the parties' collective bargaining agreement entered into pursuant to Iowa Code chapter 20.
- c. For listing on the roster as a teacher termination adjudicator:
 - (1) Good verbal and written communication skills;
 - (2) The ability and willingness to travel throughout Iowa and to work prolonged and unusual hours;
 - (3) Knowledge of Iowa Code section 279.17; and
 - (4) The ability to review adjudicatory records developed by another body, hear legal arguments in a fair and impartial manner, and prepare and issue clear, reasoned and timely decisions. For purposes of this subparagraph, "timely" means within 15 days after the teacher termination adjudication hearing pursuant to Iowa Code section 279.17(7).

14.5(4) *Experience.*

a. Applicants must demonstrate requisite experience in labor relations or arbitration in the category in which the applicant seeks listing on the roster in one of the following ways:

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

2. At least five years' experience in labor relations or labor law, with training and experience in conducting hearings and issuing reasoned awards.

(3) For listing on the roster as a teacher termination adjudicator:

1. Issuance of at least four decisions rendered in an appellate capacity; or

2. At least five years' experience in the field of education, with training and experience in reviewing adjudicatory records and issuing reasoned decisions.

b. The board may give credit against the years of experience requirement to a candidate who has received a master's or equivalent degree in a related area or who has adjudicatory experience in a field or fields other than labor relations.

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

14.5(6) Training. Prior to inclusion on the roster as an interest arbitrator, applicants must complete formal training provided by the agency.

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

14.5(8) Duration of listing. Listing on the roster shall be for a term of three years.

14.5(9) Renewal application.

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

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

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

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

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

(3) Timeliness of decisions;

(4) Feedback from the parties; and

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

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

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

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

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

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621—14.6(20) Interest arbitrator mentorship program.

14.6(1) Goal. It is a goal of the board to increase the number of Iowa residents qualified to be on the roster. Such increase should provide constituents additional options for hiring arbitrators whose reimbursable expenses, such as for mileage and accommodations, are lower and who are more familiar

with situations facing the parties. The board may suspend the interest arbitrator mentorship program at any time.

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

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

- a. Be a resident of the state of Iowa at the time of application and throughout the duration of the mentorship program and maintain the residency for the first year of listing;
- b. Have at least five years of collective bargaining experience in the public or private sector as an advocate, mediator, or combination of both;
- c. Possess good verbal and written communication skills;
- d. Have the ability and willingness to travel throughout Iowa and to work prolonged and unusual hours; and
- e. Not have a conflict of interest as described in subrule 14.8(1).

14.6(4) *The program.*

- a. The program shall consist of the following steps:
 - (1) Formal training by the agency regarding Iowa Code chapter 20, the agency's administrative rules, and how to conduct hearings and write awards;
 - (2) Shadowing an experienced arbitrator listed on the roster in at least two interest arbitrations; and
 - (3) Submission of at least two mock interest arbitration awards that comply with statutory and regulatory requirements. The board may require additional mock awards if deemed necessary.
- b. Successful completion of the program will result in the participant's inclusion on the roster as an interest arbitrator. Participants must satisfy the criteria for grievance arbitrators and teacher termination adjudicators outlined in subrules 14.5(3) and 14.5(4) prior to inclusion on the roster under those categories.

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

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

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621—14.8(20) Conflict of interest.

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

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

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

14.8(3) *Disclosure.* The board may require an arbitrator to disclose certain matters to the parties of an arbitration prior to its commencement. If either party objects to proceeding to arbitration with that arbitrator, the board may require the parties to make an alternate selection.
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621—14.9(20) Procedures for discipline and removal.

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

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

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

14.9(3) *Filing of a complaint.*

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

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

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

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

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

14.9(6) *Timely resolution of complaints.* Complaints filed with the board shall be resolved within 180 days unless good cause is shown for an extension. The board will notify the parties prior to taking action to extend this time limitation upon its own motion.
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621—14.10(20) Inactive status. A roster member who continues to meet the criteria for listing on the roster shall inform the agency if the member is unavailable for selection on a temporary basis because of illness, vacation, schedule, or other reasons. That member's name will not be included on a list of arbitrators sent to parties during the period in which the member is unavailable.
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These rules are intended to implement Iowa Code sections 20.1, 20.6, 20.22 and 279.17.

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