

## CHAPTER 53

## PAY

[Prior to 11/5/86, Merit Employment Department[570]]

[Prior to 2/18/04, see 581—Ch 4]

**11—53.1(8A) Pay plan adoption.** The director shall adopt pay plans for all classes and positions in the executive branch of state government, except as otherwise provided for in the Iowa Code.

**11—53.2(8A) Pay plan content.** Pay plans shall have numbered pay grades showing minimum and maximum salaries and intermediate salary steps, if applicable.

**11—53.3(8A) Pay plan review and amendment.** The director shall review pay plans at least annually and, taking into account the results of collective bargaining and other factors, may adjust pay ranges or reassign classes to different pay grades.

**11—53.4(8A) Pay administration.**

**53.4(1) Employees.** The director shall assign classes to pay plans and grades and shall assign employees to classes. Employees shall be paid either at one of the established steps or at a rate between the minimum and maximum of the pay grade of the class to which assigned. Pay decisions shall be at the discretion of the appointing authority, unless otherwise provided for in this chapter or by the director.

**53.4(2) Appointed officials.** Unless otherwise provided for in the Iowa Code or these rules, the staff of the governor, full-time board and commission members, department directors, deputy directors, division administrators, independent agency heads and others whose appointments are provided for by law or who are appointed by the governor may be granted pay increases of any amount at any time within the pay grade of the class or position to which appointed.

**53.4(3) Total compensation.** An employee shall not receive any pay other than that provided for the discharge of assigned duties, unless employed by the state in another capacity or specifically authorized in the Iowa Code, an Act of the general assembly or these rules.

**53.4(4) Part-time employment.** Pay for part-time employment shall be proportionate to full-time employment and based on hourly rates.

**53.4(5) Effective date of changes.** All pay changes shall be effective on the first day of a pay period, unless otherwise approved by the director. Original appointments, reemployment and reinstatements shall be effective on the employee's first day of work.

**53.4(6) General pay increases.** The director shall administer general pay increases for employees that have been authorized by the legislature and approved by the governor. An employee in a noncontract class whose pay has been red-circled above the maximum pay rate of the class to which assigned shall not receive a general pay increase, unless specifically authorized by the Acts of the general assembly or otherwise provided for in these rules.

**53.4(7) Pay corrections.** An employee's pay shall be corrected if it is found to be in violation of these rules or a collective bargaining agreement. If the correction is the result of an error or omission, the pay may be corrected within 12 pay periods following the date the employee's pay was incorrectly set or the transaction that should have occurred was omitted. Corrections shall be made on the first day of a pay period.

*a. Retroactive pay.* An employee may receive retroactive pay for a period of up to 90 calendar days preceding the date the error was corrected or the omission occurred. Requests for retroactive pay beyond 90 calendar days or which extend into a previous fiscal year must be submitted to the state appeal board.

*b. Overpayment and underpayment.* If an error results in an employee's being overpaid for wages, except for FICA, state and federal income taxes and IPERS contributions shall be collected. Also, premiums for health, dental and life insurance benefits that have been underpaid shall be subject to collection. An employee may choose to repay the amount from wages in the pay period following discovery of the error, have the overpayment deducted from succeeding pay periods not to exceed the number of pay periods during which the overpayment occurred, or the employee or appointing authority

may submit an alternate repayment plan to the director. The director shall notify the appointing authority of the decision on the alternate repayment plan. The appointing authority shall submit the repayment plan on forms prescribed by the department beginning with the document correcting the employee's pay. If the employee terminates, the amount remaining shall be deducted from wages, vacation payout, applicable sick leave payout and any wage correction payback from IPERS.

**11—53.5(8A) Appointment rates.** An employee shall be paid at the minimum pay rate for the class to which appointed, except in the following instances:

**53.5(1) Individual advanced rate.** For new hires or promotions and upward reclassifications of employees in contract classes, the appointing authority may grant steps or pay rates in excess of the minimum. The appointing authority shall maintain a written record of the justification for the advanced rate. The record shall be a part of the official employee file. All employees possessing equivalent qualifications in the same class and with the same appointing authority may be adjusted to the advanced rate.

**53.5(2) Blanket advanced rate.** If there is a scarcity of applicants, an appointing authority may submit a written request to the director documenting the economic or employment conditions that make employment at the minimum pay rate for a class unlikely. The director may authorize appointments beyond the minimum rate for the class as a whole or in a specific geographical area. All current employees and new or promoted employees under the same conditions and in the same class shall be paid the higher rate. This rate shall remain in effect until rescinded by the director.

**53.5(3) Trainee.** Rescinded IAB 1/28/04, effective 3/24/04.

**53.5(4) Internship.** Rescinded IAB 1/28/04, effective 3/24/04.

**53.5(5) Temporary, seasonal, and internship.** When an appointment is made to a class on a temporary, seasonal, or internship basis, the employee may be paid at any rate within the pay grade to which the class is assigned.

**53.5(6) Overlap.** When an appointment is made on an overlap basis, the employee shall be paid in accordance with this chapter.

**11—53.6(8A) Payroll transactions.**

**53.6(1) Pay at least at minimum.** If a transaction results in an employee's being paid from a different pay plan or pay grade, the employee shall be paid at least the minimum pay rate of the class to which assigned, except as provided in subrules 53.5(3) and 53.5(4).

**53.6(2) Pay not to exceed maximum.** If a transaction results in an employee's being paid from a different pay plan or pay grade, the employee's pay shall not exceed the maximum pay rate of the class to which assigned, except as provided in subrule 53.6(3) or 53.6(13) or rule 53.8(8A).

**53.6(3) Red-circling.** If the pay of an employee in a noncontract class exceeds the maximum pay for the class to which assigned, the employee's pay may be maintained (red-circled) above the maximum for up to one year. Requests to change the time period or the red-circled rate must first be submitted to the director for approval. If approved, the appointing authority shall notify the employee in writing of any changes in the time period and the pay. If an employee's classification or agency changes, a request to rescind the red-circling may be submitted by the appointing authority to the director for approval. The director may also require red-circling in certain instances.

**53.6(4) Pay plan changes.** If a transaction results in an employee's being paid from a pay plan without steps, the employee shall be paid at the employee's current pay rate, except as provided in subrules 53.6(1) and 53.6(2). When the transaction results in an employee's being paid from a pay plan with steps, the employee shall be paid at a step in the pay plan that is closest to but not less than the employee's current pay rate, except that for demotions the employee's pay shall be at the discretion of the appointing authority so long as it is not greater than it was prior to the demotion. For setting eligibility dates, see subrule 53.7(5).

**53.6(5) Pay grade changes.** If a transaction results in an employee in a noncontract class being paid in a higher pay grade, the employee's pay may be increased by up to 5 percent for each grade above the employee's current pay grade, except as provided in subrules 53.6(1) and 53.6(2). The implementation

of pay grade changes for employees in contract classes shall be negotiated with the applicable collective bargaining representative. For setting eligibility dates, see subrule 53.7(5).

**53.6(6) Promotion.** For setting eligibility dates, see subrule 53.7(5).

*a. Noncontract classes.* If an employee is promoted to a noncontract class, the employee may be paid at any rate in the pay grade of the pay plan to which the employee's new class is assigned, except as provided in subrules 53.6(1) and 53.6(2).

*b. Contract classes.* If an employee is promoted to a contract-covered class without steps, the employee shall receive a 5 percent pay increase. If promoted to a contract-covered class with steps, the employee shall receive a one-step pay increase, except as provided in subrules 53.5(1), 53.6(1), 53.6(2), and 53.6(4).

*c. Leadworker.* If an employee who is receiving additional pay for leadworker duties is promoted, the pay increase shall be calculated using the employee's new base pay plus the leadworker pay.

**53.6(7) Demotion.** If an employee demotes voluntarily or is disciplinarily demoted, the employee may be paid at any step or pay rate that does not exceed the employee's pay at the time of demotion, except as provided in subrules 53.6(1), 53.6(2) and 53.6(4). For setting eligibility dates, see subrule 53.7(5).

**53.6(8) Transfer.** If an employee transfers under these rules to a different class, the employee shall be paid at the employee's current pay rate, except as provided in subrules 53.6(1), 53.6(2) and 53.6(4).

**53.6(9) Reclassification.** If an employee's position is reclassified, the employee shall be paid as provided for in subrule 53.6(6), 53.6(7) or 53.6(8), whichever is applicable. For setting eligibility dates, see subrule 53.7(5).

**53.6(10) Return from leave.** If an employee returns from an authorized leave, the employee shall be paid at the same step or pay rate as prior to the leave, including any pay grade, pay plan, class or general salary increases for which the employee would have been eligible if not on leave, except as provided for in subrules 53.6(1) and 53.6(2). For setting eligibility dates, see subrule 53.7(5).

**53.6(11) Recall.** If an employee is recalled in accordance with 11—subrule 60.3(6), the employee shall be paid at the same step or pay rate as when laid off or bumped, including any pay grade, pay plan, class or general salary increases, except as provided in subrules 53.6(1) and 53.6(2). For setting eligibility dates, see subrule 53.7(5).

**53.6(12) Reinstatement.** When an employee is reinstated, the employee may be paid at any step or pay rate for the class to which reinstated.

**53.6(13) Change of duty station.** If an employee is promoted, reassigned or voluntarily demoted at the convenience of the appointing authority and a change in duty station beyond 25 miles is required, the employee may receive a one-step or up to 5 percent pay increase. The pay may exceed the maximum pay for the class to which assigned. Notice must first be given to the director. Subsequent changes in duty station may result in the additional pay being removed.

#### **11—53.7(8A) Within grade increases.**

**53.7(1) General.** An employee may receive a periodic step or percentage increase in base pay that is within the pay grade and pay plan of the class to which assigned upon completion of a minimum pay increase eligibility period.

*a. Pay increase eligibility periods.* The minimum pay increase eligibility period for employees paid from pay plans without steps shall be 52 weeks, except that it shall be 26 weeks for new hires and employees who receive an increase in base pay as a result of a promotion, reclassification or pay grade change. Minimum pay increase eligibility periods for employees paid from pay plans with steps shall be the number of weeks in the pay plan that corresponds to the employee's step.

*b. Noncreditable periods.* Except for required educational and military leave, periods of leave without pay exceeding 30 calendar days shall not count toward an employee's pay increase eligibility period.

*c. Reduction of time periods.* The director may authorize a reduction in pay increase eligibility periods for classes where there are unusual recruitment and retention circumstances.

**53.7(2) *Noncontract classes.*** An employee in a noncontract class may be given any amount of within grade pay increase up to the maximum pay rate for the employee's class. The pay increase shall be at the beginning of the pay period following completion of the employee's prescribed minimum pay increase eligibility period and shall not be retroactive, except as provided for in subrule 53.4(7).

*a. Performance.* Within grade pay increases shall be based on performance, are not automatic, and may be delayed beyond completion of the employee's minimum pay increase eligibility period. To be eligible, a within grade pay increase must be accompanied by a current performance evaluation on which the employee received a rating of at least "meets job expectations." Time spent on required educational or military leave shall be considered to "meet job expectations."

*b. Lump sum.* When budgetary conditions make it infeasible to grant within grade pay increases, an appointing authority may instead grant a lump sum increase. The increase shall not be added to the employee's base pay and shall be allowed only once in a fiscal year. Lump sum pay increases must be requested in writing from the director.

**53.7(3) *Contract classes.*** Within grade pay increases for employees in contract classes shall be in accordance with the terms of their collective bargaining agreement.

**53.7(4) *Certified teachers.*** Within grade pay increases for employees who are required to possess a current valid teaching certificate with appropriate endorsements and approvals by the Iowa department of education shall be based on length of service, performance and credentials.

**53.7(5) *Eligibility dates.*** An employee's pay increase eligibility date shall be set at the time of hire, and if the employee starts on the first working day of the pay period, it shall be the first day of the pay period following completion of the employee's minimum pay increase eligibility period. Otherwise, it shall be the first day of the pay period following the date the employee starts work.

*a. General.* A new eligibility date shall be set when an employee receives an increase in base pay, except when transferring in the same pay grade to a different pay plan. The following pay increase eligibility periods shall be used to set these dates.

(1) Fifty-two weeks for employees paid from pay plans without steps, except that for new hires and employees who receive a pay increase as a result of a promotion, reclassification or pay grade change it shall be 26 weeks.

(2) For employees paid from pay plans with steps, it shall be the number of weeks in the pay plan that corresponds to the employee's pay step after the pay increase.

*b. Bumping.* An employee who is recalled to a class from which the employee was bumped shall have a new eligibility date set if the pay increase eligibility period of the class to which recalled is less than the employee's current pay increase eligibility period.

*c. No adjustment for educational or military leave.* An employee who returns to work from required educational or military leave shall have the employee's eligibility date restored without adjusting for the period of absence.

*d. Adjustments for returning from leave or recall.* An employee who returns to work from a recall list or from an authorized leave of absence shall have the employee's eligibility date restored, but adjusted for the period of absence that exceeds 30 calendar days.

*e. Prior service credit.* If a transfer or demotion results in an employee's having a longer pay increase eligibility period, credit shall be given for the time served toward completion of the employee's new pay increase eligibility period.

*f. Administrative changes.* The director may change eligibility dates when economic or other pay adjustments are made to the classification plan or pay plans.

**53.7(6) *Suspension.*** If within grade pay increases are suspended by an Act of the general assembly, the rules that provide for such increases shall also be suspended.

**11—53.8(8A) Temporary assignments.** Requests to provide employees with additional pay for temporary assignments shall first be submitted in writing to the director for review and indicate the reason and period of time required, if applicable. This pay may exceed the maximum for the employee's class. If temporary assignments are terminated or the duties removed, the additional pay shall also end.

**53.8(1) *Leadworker.*** An employee who is temporarily assigned lead work duties, as defined in rule 11—50.1(8A), may be given additional pay of up to 15 percent.

**53.8(2) *Special duty.*** An employee who is temporarily assigned to a vacant position in a class with a higher pay grade may be given additional pay equal to that provided in paragraph “a” or “b” of subrule 53.6(6), whichever is applicable.

**53.8(3) *Extraordinary duty.*** An employee who is temporarily assigned higher level duties, including supervisory duties, may be given additional pay in step or percent increments.

**53.8(4) *Effect on within grade increases.*** Temporary assignments shall not affect an employee’s eligibility for within grade pay increases, and the additional pay amount shall be recalculated whenever a within grade pay increase is granted. The class to which the employee is temporarily assigned shall be controlling for purposes of overtime, shift differential, standby and call back pay.

#### **11—53.9(8A) Special pay.**

**53.9(1) *Shift differential.*** If an overtime eligible employee in a noncontract class works for an appointing authority whose operations require other than a day shift, the employee shall receive a shift differential if scheduled to work four or more hours between 6 p.m. and 6 a.m. for two or more consecutive workweeks, or is regularly assigned to rotate shifts. The amount of the shift differential shall be determined by the director and paid in cents per hour. There shall be one rate for the 6 p.m. to midnight time period and another higher rate for the midnight to 6 a.m. time period. Employees who work in both time periods shall be paid at the rate applicable to the period in which the majority of their hours are worked. Employees who work equal amounts in both time periods shall be paid at the higher rate. The differential shall be in addition to the employee’s regular base pay and shall be paid for all hours in pay status.

Employees in overtime exempt noncontract classes may receive a shift differential if a request is first submitted in writing and approved by the director. Shift differential for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.

**53.9(2) *Call back.*** If an overtime eligible employee in a noncontract class is directed to report to work during unscheduled hours that are not contiguous to the beginning or the end of the employee’s assigned shift, the employee shall be paid a minimum of three hours. These hours shall be considered as hours worked for purposes of determining overtime, but shall not count as standby hours if the employee is in standby status. Employees in overtime exempt noncontract classes may be eligible for call back pay, if a request is first submitted in writing and approved by the director.

Call back for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.

**53.9(3) *Standby.*** If an employee in an overtime eligible noncontract class is directed to be on standby after the end of the employee’s shift, the employee shall be paid 10 percent of the employee’s hourly pay rate for each hour in a standby status. If required to be on standby, an employee shall receive at least one hour of standby pay. Time spent working while on standby shall not count in determining standby pay, nor shall standby hours count for purposes of determining overtime. Employees in overtime exempt classes may be eligible for standby pay if a request is first submitted in writing and approved by the director. Standby for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.

**53.9(4) *Discretionary payments.*** A lump sum payment for exceptional job performance may be given to an employee whenever the appointing authority deems it appropriate. A written explanation setting forth the reasons shall first be submitted to the director.

**53.9(5) *Recruitment or retention payments.*** A payment to a job applicant or an employee may be made for recruitment or retention reasons. A written explanation shall first be submitted in writing to the director.

As a condition of receiving recruitment or retention pay, the recipient must sign an agreement to continue employment with the appointing authority for a period of time following receipt of the payment that is deemed by the appointing authority to be commensurate with the amount of the payment. If the recipient is terminated for cause or voluntarily leaves state employment, the recipient will be required to

repay the appointing authority for the proportionate amount of the payment for the time remaining, and it will be recouped from the final paycheck. When the recipient changes employment to another state agency, then a repayment schedule must be approved by the director. Recoupment will be coordinated with the department of administrative services, state accounting enterprise, to ensure a proper reporting of taxes.

**53.9(6) Pay for increased credentials.** An employee in a noncontract classification who successfully completes a course of study, a certificate program, or any educational program directly related to the employee's current employment is eligible to receive an increase in base pay at the discretion of the appointing authority. Granting an increase pursuant to this subrule will not affect an employee's pay increase eligibility date and may not exceed the maximum pay for the assigned job classification pursuant to subrule 53.6(2).

**11—53.10(8A) Phased retirement.** An employee who participates in the phased retirement program shall receive 10 percent of the employee's regular biweekly pay in addition to being paid for the number of hours the employee works or is in pay status during the pay period. An employee who is on leave without pay during an entire pay period shall not receive the additional 10 percent for that pay period.

**11—53.11(8A) Overtime.**

**53.11(1) Administration.** Job classes shall be designated by the director as overtime eligible or overtime exempt.

**53.11(2) Eligible job classes.** An employee in a job class designated as overtime eligible shall be paid at a premium rate (one and one-half hours) for every hour in pay status over 40 hours in a workweek.

**53.11(3) Exempt job classes.** An employee in an overtime exempt job class shall not be paid for hours worked or in pay status over 40 hours in a workweek, except as specifically provided for in a collective bargaining agreement.

**53.11(4) Method of payment.** Payment of overtime for employees in noncontract classes shall be in cash or compensatory time. The decision shall rest with the employee, except that the appointing authority may require overtime to be paid in cash. Employees in noncontract classes may elect compensatory time for call back, standby, holiday hours and for working on a holiday. Payment of overtime for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.

**53.11(5) Compensatory time.** An overtime eligible employee in a noncontract class may accrue up to 80 hours of compensatory time before it must be paid off. Compensatory time may be paid off at any time, but it shall be paid off if the employee separates, transfers to a different agency, or moves to a class with a different overtime eligibility designation. The paying off of compensatory time for employees in classes covered by a collective bargaining agreement shall be in accordance with the terms of the applicable agreement.

**53.11(6) Holiday hours.** Holiday hours that have already been paid at a premium rate shall not be counted in calculating overtime.

**11—53.12(8A) Years of service incentive program.** This termination incentive program is provided for in Iowa Code Supplement section 70A.38. To be eligible to participate in this program, an employee must have completed at least ten years of credited service as of the date of termination of employment.

**53.12(1) Definitions.** For purposes of this program:

*"Credited service"* means service in a retirement system as defined in Iowa Code sections 97B.1A and 97A.1, including buy-back or buy-in service. Length of credited service shall be as calculated by the respective retirement system, pursuant to each system's respective rules and regulations.

*"Employee"* means an employee of the executive branch of state government, including an employee of a judicial district department of correctional services or the department of justice. However, "employee" does not mean an employee of the state board of regents or an elected official.

*"Employer"* means a department, agency, board, or commission within the executive branch of state government.

“*Participant*” means an eligible employee selected by the employer who agrees to participation, who is approved for participation, and who receives a termination incentive.

“*Program*” means the years of service incentive program established in Iowa Code Supplement section 70A.38.

“*Regular annual salary*” means (1) for full-time employees, an employee’s regular biweekly salary on the date of termination, multiplied by 26; or (2) for part-time employees, the cumulative salary received by the employee during the 26 pay periods immediately prior to submission of the employer’s business plan.

“*Termination incentive*” means an amount equal to the lesser of \$250 for every quarter year of credited service of the eligible employee or the regular annual salary of the eligible employee.

**53.12(2)** As a condition of participation in this program, participating employees shall, in writing, on forms developed by the department:

*a.* Waive all rights to file suit against the state of Iowa, including all state departments, agencies, and other subdivisions, based on state or federal claims arising out of the employment relationship;

*b.* Acknowledge that, as a participant in the program, the employee waives any right to accept permanent employment with the state of Iowa other than as an elected official or as an employee of the state board of regents;

*c.* Agree to separate from employment with the state by the date agreed upon by the eligible employee and the employer, consistent with the approved business plan.

**53.12(3)** Prior to offering this incentive program to eligible employees, the employer must receive approval from the department and from the department of management. The employer shall submit a business plan, on forms developed by the department, at least 75 days prior to the expected employment termination date. The business plan must justify the offer of the incentive to the proposed participants. The business plan must include:

*a.* The name(s) of each proposed participant, including the length of credited service to confirm eligibility;

*b.* The projected dollar savings to be achieved during the current fiscal year;

*c.* The specific resources or programs the employer seeks to manage differently through the use of the program and how the impacted resources or programs will be affected; and

*d.* The proposed date(s) by which the employer expects to fill the position(s) vacated by the eligible participant(s).

**53.12(4)** If a business plan is approved, the employer may offer the eligible participant(s), in writing, the opportunity to participate in the program. The employer may rescind an offer to participate in the program at any time prior to an eligible employee’s acceptance of a written offer to participate in the program. The written notice shall include:

*a.* A date by which the offer must be accepted or rejected;

*b.* A proposed date for termination of the participant’s employment; and

*c.* A written release and acknowledgment signed by the participant agreeing to participate in the program.

**53.12(5)** Participants in the program shall receive, upon termination, a lump sum termination incentive as described in 11 IAC 53.12(1).

**11—53.13(8A) Appeals.** Appeal of the application of these rules must be filed as a grievance pursuant to 11—61.1(8A). The appeal procedures for grievance decisions as addressed in 11—61.2(8A) must be exhausted prior to a petition for judicial review.

These rules are intended to implement Iowa Code Supplement sections 8A.401, 8A.402, 8A.411, 8A.413, 8A.417, 8A.418, 8A.439, 8A.455, 8A.456 and 8A.458.

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Filed objection to 4.5(2) overcome, see attorney general opinion 1/21/76, 1976 OAG 410

<sup>1</sup> Effective date of 4.3, 4.4, 4.5, 4.7, 4.9 and 4.10 delayed 70 days by Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.

<sup>2</sup> See IAB Personnel Department