

CHAPTER 5
PERSONNEL APPEALS

486—5.1(10A) Appeals.

5.1(1) *Form and time of appeal.* A person aggrieved by a personnel action pertaining to an application rejection; examination rating; removal from an eligible list or disqualification; or veteran's points rejection may appeal to the employment appeal board within 30 days from the date of the notification of the action. The appeal must be in writing, signed by the appellant or authorized agent. If an appeal is signed by the authorized agent, the name of the appellant shall be shown in the appeal.

The appeal shall be addressed to Employment Appeal Board, Lucas State Office Building, Fourth Floor, 321 East 12th Street, Des Moines, Iowa 50319.

5.1(2) *Taking the appeal.* An appeal may be filed by mail, by facsimile transmission, by other transmission, or in person. If filed by U.S. Postal Service, the date of filing shall be the date of the postmark, if legible. If by fax, the date of filing shall be the date of the fax transmission. If by other transmission, or in person, the date of filing shall be the date received by the employment appeal board.

The employment appeal board shall provide the respondent agency a copy of the appeal.

5.1(3) *Hearing date and notice.* Upon receipt of the appeal, the appeal board shall determine if the board will conduct the hearing or if it will assign the appeal to an administrative law judge of the appeals section of the department of inspections and appeals. If the board conducts the hearing, a hearing date shall be established and notice of the hearing shall be sent to the parties by ordinary mail not less than ten days prior to the hearing.

If the matter is assigned to an administrative law judge, the matter shall be assigned for hearing by the administrative law judge utilizing procedures established by the appeals section of the department of inspections and appeals.

5.1(4) *Continuances.* Requests for continuance of a hearing must be made not less than three days before the scheduled hearing date. The request must be in writing and signed by the requesting party or an authorized representative. Each party shall be granted only one continuance, unless good cause is established as determined by the chairperson of the appeal board or assigned administrative law judge.

5.1(5) *Hearings.* The hearing may be conducted by a quorum of the employment appeal board. A quorum of the appeal board shall be two members. If the matter is assigned to an administrative law judge, that person shall conduct the hearing.

5.1(6) *Procedure during hearings.* If the appeal is heard by the employment appeal board, the hearing shall be conducted in an informal manner utilizing the procedures provided in Iowa Code section 17A.12.

5.1(7) *Decision.* If the hearing is conducted by the employment appeal board, the decision of the board shall be the final decision. If the hearing is conducted by an administrative law judge, the decision shall be a proposed decision, which shall become the final decision 20 days after the issue date of that decision, unless a further appeal is taken to the employment appeal board. The appeal board on further review may reverse, modify or remand the proposed decision. The decision of the employment appeal board becomes the final decision on further review.

5.1(8) *Rehearings and further appeals.* The decision of the appeal board shall be the final decision of the agency. A request for rehearing must be filed within 20 days of the date of the board's decision. The board has 20 days from the date of filing to act on the request for rehearing or it is deemed denied by law. Any appeal to district court must be made within 30 days from the date of the decision of the employment appeal board or to the denial, or deemed denial, of the request for rehearing.

This rule is intended to implement Iowa Code section 10A.601.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/16/89, Notice 11/16/88—published 3/8/89, effective 4/12/89]

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

[Filed 4/25/03, Notice 3/19/03—published 5/14/03, effective 6/18/03]