

486—4.7(10A,88) Service and notice.

4.7(1) At the time of filing pleadings or other documents a copy thereof shall be served by the filing party or intervenor on every other party or intervenor.

4.7(2) Service upon a party or intervenor who has appeared through a representative shall be made only upon such representative.

4.7(3) Unless otherwise ordered, service may be accomplished by postage prepaid first-class mail or by personal delivery. Service is deemed effected at the time of mailing (if by mail) or at the time of personal delivery (if by personal delivery).

4.7(4) Proof of service on other parties and intervenors shall be accomplished by a written statement which sets forth the date and manner of service. Such statements shall be filed with the pleading or document.

4.7(5) Where service is accomplished by posting, proof of posting shall be filed not later than the first working day following the posting.

4.7(6) Service and notice to employees represented by an authorized employee representative shall be deemed accomplished by serving the representative in the manner prescribed in 4.7(3).

4.7(7) In the event that there are any affected employees who are not represented by an authorized employee representative, the employer shall, immediately upon receipt of notice of docketing of the notice of contest, post, where the citation is required to be posted by the labor services division rules, a copy of the notice of contest and a notice informing affected employees of their right to party status and of the availability of all pleadings for inspection and copying at reasonable times. A notice in the following form shall be deemed to comply with this subrule:

(Name of Employer)

Your employer has been cited by the commissioner of labor for violation of the Iowa Occupational Safety and Health Act. The citation has been contested and will be the subject of a hearing before an administrative law judge designated by the employment appeal board. Affected employees are entitled to participate in this hearing as parties under terms and conditions established by the employment appeal board in its rules of procedure. Notice of intent to participate should be sent at the earliest opportunity to: Employment Appeal Board, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321. All papers relevant to this matter may be inspected at: (Place reasonably convenient to employees, preferably at or near the workplace).

4.7(8) The authorized employee representative, if any, shall be served with the notice set forth in 4.7(7) and with a copy of the notice of contest.

4.7(9) A copy of the notice of the hearing to be held before the administrative law judge shall be served by the employer on affected employees who are not represented by an authorized employee representative by posting a copy of the notice of such hearing at or near the place where the citation is required to be posted.

4.7(10) A copy of the notice of the hearing to be held before the administrative law judge or the employment appeal board shall be served by the employer on the authorized employee representative of affected employees in the manner prescribed in 4.7(3), if the employer has not been informed that the authorized employee representative has entered an appearance as of the date notice is received by the employer.

4.7(11) Where a notice of contest is filed by an affected employee who is not represented by an authorized employee representative and there are other affected employees who are represented by an authorized employee representative, the unrepresented employee shall, upon receipt of the statement filed in conformance with 4.35(10A,88) of this division, serve a copy thereof on such authorized employee representative in the manner prescribed in 4.7(3) and shall file proof of such service.

4.7(12) Where a notice of contest is filed by an affected employee or an authorized employee representative, a copy of the notice of contest and response filed in support thereof shall be provided to the employer for posting in the manner prescribed in 4.7(7).

4.7(13) An authorized employee representative who files a notice of contest shall be responsible for serving any other authorized employee representative whose members are affected employees.

4.7(14) Where posting is required by this rule, such posting shall be maintained until the commencement of the hearing or until earlier disposition.

4.7(15) When settlement agreements are filed with the employment appeal board they shall be posted for ten days at or near the place where the citation is required to be posted.

4.7(16) If any party or intervenor fails to comply with the notice requirements of these rules, the employment appeal board may issue appropriate orders.

This rule is intended to implement Iowa Code chapter 88 and section 10A.601.

[Editorial change: IAC Supplement 2/21/24]