

**495—26.28(17A,97B) Appeal of the hearing decision.**

**26.28(1) *Notice of appeal.*** An appeal of a written decision of an administrative law judge is initiated by filing a timely notice of appeal with the employment appeal board of the Iowa department of inspections and appeals. In determining the date that a notice of appeal or any other document is filed with the employment appeal board, and subject to applicable exceptions adopted by the employment appeal board, the following shall apply: an appeal or any other document delivered by mail shall be deemed to be filed as of the postmark date; an appeal or any other document delivered by any other means shall be deemed to be filed as of the date that it is received. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

**26.28(2) *Requests to present additional evidence.*** A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The CEO, or a designee, may preside at the taking of additional evidence.

**26.28(3) *Scheduling.*** The employment appeal board shall issue a schedule for consideration of the appeal.

**26.28(4) *Briefs and arguments.*** Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 14 days thereafter any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The employment appeal board may resolve the appeal on the briefs or provide an opportunity for oral argument.

**26.28(5) *Judicial review.*** The employment appeal board's decision shall be final and without further review 30 days after the decision is mailed to all interested parties of record unless within 20 days a petition for rehearing is filed with the employment appeal board or within 30 days a petition for judicial review is filed in the appropriate district court. The agency, in its discretion, may also petition the district court for judicial review of questions of law involving any of its decisions. Action brought by the agency for judicial review of its decisions shall be brought in the district court of Polk County, Iowa.