

486—2.3(10A) Ex parte communications.

2.3(1) An ex parte communication is an oral or written communication relating directly to the facts or legal questions at issue in a contested case proceeding which is made by a party in interest to the employment appeal board without the knowledge of or outside the presence of the other parties and with the object of affecting the outcome of the case.

2.3(2) Ex parte communication does not include:

- a.* Statements given by the parties to claims representatives for use in making the initial determination;
- b.* Statements contained in any party's appeal from an initial determination;
- c.* Statements relating only to procedural or scheduling matters, such as requests for discovery, subpoenas, postponements or withdrawals of appeals; or
- d.* Requests for clarification of a legal issue involved in a contested case, but only to the extent of requesting information on the applicable law and not as to matters of fact.

2.3(3) Unless required for the disposition of ex parte matters specifically authorized by statute or rule, no party or its representative shall communicate directly or indirectly with the employment appeal board concerning a contested case before the board, nor shall any member of the employment appeal board communicate directly or indirectly with a party or its representative concerning any such issue of fact or law in a contested case unless:

a. Each party or its representative is given written notification of the communication. Such notification shall contain a summary of the communication, if oral, or a copy of the communication, if written, as well as the time, place and means of communication.

b. After notification, all parties have the right, upon written demand, to respond to the ex parte communication, including the right to be present and heard if an oral communication has not been completed. If the communication is written, or oral and completed, all other parties have the right, upon written demand, to a special hearing to respond to the ex parte communication.

c. Whether or not any party requests the opportunity to respond to an ex parte communication made in violation of Iowa Code section 17A.17(2), the employment appeal board shall include such communication in the official record of the contested case.