

**SERVICE COMMITTEE  
OF THE LEGISLATIVE COUNCIL**

***MEMBERS***

***Senator Mike Gronstal, Chairperson***

***Senator Wally Horn***

***Senator Jack Rife***

***Representative Clifford Branstad***

***Representative Brent Siegrist***

***Representative John Connors***

**TENTATIVE AGENDA**

Thursday, June 20, 1996

Committee Room 22

- 11:30 a.m.    Call to Order
- Roll Call
- Recommendations regarding Personnel Guidelines Revisions  
                          - Grant Dugdale, Assistant Attorney General
- Receipt of Annual Personnel Reports  
                          from Central Staff Agencies
- Monthly Personnel Reports  
                          - Legislative Fiscal Bureau  
                          - Legislative Service Bureau  
                          - Computer Support Bureau  
                          - Citizens' Aide/Ombudsman
- Notification of Vacation Buy Out
- Computer User Policy Direction Committee Reports
- Additional Business?
- Adjournment



## Department of Justice

THOMAS J. MILLER  
ATTORNEY GENERAL

ADDRESS REPLY TO:  
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DES MOINES, IOWA 50319  
TELEPHONE: 515-281-3164  
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June 7, 1996

### CONFIDENTIAL: ATTORNEY-CLIENT MATTER

Hand Delivered

Ms. Diane E. Bolender, Director  
Legislative Service Bureau  
State Capitol  
LOCAL

Mr. Richard L. Johnson, Deputy Director  
Legislative Service Bureau  
State Capitol  
LOCAL

Re: Review of Personnel Guidelines for the Central Staff Agencies

Dear Diane & Rich:

In accordance with your request, I have reviewed the Personnel Guidelines for the Central Staff Agencies ("Guidelines") and the proposed changes to the Guidelines which you hand delivered last Friday. In light of the recent employment problems encountered by the Central Staff Agencies, you have asked me to review the Guidelines and identify any potential problems and suggest possible changes where appropriate. Many of the issues raised in this letter are suggestions for further discussion.

#### I. THE LEGAL SIGNIFICANCE OF THE GUIDELINES—MAINTAINING THE AT-WILL STATUS OF CENTRAL STAFF AGENCIES EMPLOYEES

Before commenting on specific provisions of the Guidelines, I want to address the legal significance of the Guidelines. It is my understanding that all employees of the Central Staff Agencies are employees at-will. Generally, employees in Iowa are considered to be at-will and may be discharged at any time, for any reason, or for no reason at all. French v. Foods, Inc., 495 N.W.2d

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768, 769 (Iowa 1993); Hunter v. Board of Trustees of Broadlawns Medical Center, 481 N.W.2d 510, 513 (Iowa 1992); Fogel v. Trustees of Iowa College, 446 N.W.2d 451, 455 (Iowa 1989); Wolfe v. Graether, 389 N.W.2d 643, 652 (Iowa 1986). There are two recognized exceptions to the employment-at-will doctrine: (1) when the discharge is in clear violation of a well recognized and defined public policy, and (2) where written policies, such as employee handbooks, meet the requirements of a unilateral contract. Anderson v. Douglas & Lomason Co., 540 N.W.2d 277, 282 (Iowa 1995); French v. Foods, Inc., 495 N.W.2d at 700; McBride v. City of Sioux City, 444 N.W.2d 85, 90 (Iowa 1989); Cannon v. National By-Products, 422 N.W.2d 638, 640 (Iowa 1988).

Although there is no guarantee, the key to avoiding erosion of the employment at-will status of employees is the use of a disclaimer to prevent the formation of a unilateral contract. "A disclaimer can prevent the formation of a contract by clarifying the intent of the employer not to make an offer." Anderson, 540 N.W.2d at 287. "[T]he essential purpose of a disclaimer is to claim the at-will status for the employment status for the employment relationship by repudiating or denying liability for statements expressed in the handbook." Anderson, 540 N.W.2d at 287 quoting Stephen F. Befort, *Employee Handbooks and the Legal Effects of Disclaimers*, 13 Indus.Rel.L.J. 326, 349 (1991/1992). Under Iowa law, there are no special requirements for a disclaimer other than establishing that a reasonable employee who reads the disclaimer would understand it to mean that the employer has not assented to be bound by the handbook's provisions. Anderson, 540 N.W.2d at 288.

Therefore, in order to preserve the at-will status of the employees of the Central Staff Agencies, I recommend that the following disclaimer be included in the Guidelines:

The Personnel Guidelines for the Central Staff Agencies were developed to describe and outline some of the policies, procedures, employment benefits and other matters of interest to employees of the Central Staff Agencies. The Personnel Guidelines for the Central Staff Agencies are informational in nature only and its provisions are subject to change.

Moreover, the Personnel Guidelines for the Central Staff Agencies in no way alters the nature of the employment relationship. All employees of the Central

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Staff Agencies who are employed without specific written contract of employment entered on behalf of the agency who employs them have the right at all time and at their discretion to terminate the employment relationship. Similarly, the Central Staff Agencies have the same right.

The Personnel Guidelines for the Central Staff Agencies are not intended to create any contractual rights in favor of you or the Central Staff Agencies. The Legislative Council reserves the right to change the terms of the Personnel Guidelines for Central Staff Agencies at any time.

Another important element of maintaining the at-will status of employees is to disseminate the Guidelines to all current employees or to new employees at the time of hire and also obtain employee signatures on a form indicating receipt of the Guidelines. It is advisable that the receipt form itself contain an abbreviated statement acknowledging the at-will nature of the employment relationship. I recommend that the following statement be incorporated in the receipt form:

I acknowledge receipt of the Personnel Guidelines for the Central Staff Agencies. I have read the document and understand its contents. I understand that the Personnel Guidelines for the Central Staff Agencies is informational in nature only and creates no contractual rights or obligations. The Personnel Guidelines for the Central Staff Agencies summarizes employment policies, practices, and procedures which are subject to change from to time. Further, unless any employee has a specific written contract of employment, employment with \_\_\_\_\_ is for no definite period of time. \_\_\_\_\_ and its employees have at all times the right to terminate the employment relationship.

Each acknowledgement form should be signed by the individual employee and the signature should be dated and witnessed. The original acknowledgment form should be maintained in the employee's personnel file.

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In addition, any references to "permanent employees" should be deleted from the Guidelines as the use of that or similar terms is contrary to the employment at-will status. Most of the references to "permanent employees" have been deleted in the revisions and I have tried to identify other instances where that term or similar term is used elsewhere in this letter.

Maintaining the at-will status of employees of the Central Staff Agencies is important and the failure to do so could have serious consequences. First, a discharged employee could have a breach of contract action against his former employer--no just cause for termination. Generally, an employer should have a good reason to terminate any employee, including at-will employees, and then document those reasons. The problem arises, however, that the reasons supporting the termination of an at-will employee may not rise to the level of just cause. As a result, the employer could be liable for breach of contract if a court later determines the employee could only be discharged for cause.

Second, if a public employee can only be discharged for just cause, then the employer must comply with procedural due process requirements. Failure to provide procedural due process could subject the employer to liability for the deprivation of the employee's civil rights under an action brought under 42 U.S.C. 1983.

A government employee is entitled to procedural due process only when he has been deprived of a constitutionally protected property or liberty interest in his job. See, e.g., Board of Regents v. Roth, 408 U.S. 564, 570-71, 92 S.Ct. 2701, 2705-06, 38 L.Ed.2d 548 (1972). Under certain circumstances, public employees may have a constitutionally protected property right in continued employment. Cleveland Board of Education v. Loudermill, 470 U.S. 532, 105 S.Ct. 1487, 1491-92, 84 L.Ed.2d 494, 501-03 (1985); Board of Regents v. Roth, 408 U.S. at 576-78, 92 S.Ct. 2708-10. Such rights are created by state law and not by the Constitution. Roth, 408 U.S. at 577, 92 S.Ct. at 2709. In the public sector, employees who can only be discharged for just cause are usually considered as having a constitutionally protected property interest in continued employment.

If there is a constitutionally protected property interest at stake, the next step is to determine what process is due that employee. The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. Mathews v. Eldridge, 424 U.S. 319, 333, 96 S.Ct. 893, 902, 47 L.Ed.2d 18 (1976). Due process is a flexible concept that varies with the

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particular situation. Zinermon v. Burch, 494 U.S. 113, 127, 110 S.Ct. 975, 984, 108 L.Ed.2d 100 (1990). In the public sector, such a determination involves the pre-deprivation and post-deprivation procedures available to an employee. As a rule of thumb, when there is a trial-like post-termination hearing, then pre-deprivation procedures need only be minimal. The United State Supreme Court has addressed the question of what pre-termination due process must be afforded a public employee who can only be discharged for just cause in Cleveland Board of Education v. Loudermill, 470 U.S. 532, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985). Due process merely requires "some kind of hearing prior to the discharge of an employee who has a constitutionally protected property interest in his employment. Id., 470 U.S. at 542, 105 S.Ct. at 1493, 84 L.Ed.2d at 504.

In Loudermill, the Supreme Court expressly rejected the argument that an employee is entitled to a full evidentiary hearing prior to termination. A public employee is entitled to oral or written notice of the charges, an explanation of the employer's evidence, and an opportunity to present the employee's side of the story prior to being terminated. Loudermill, 470 U.S. at 546, 105 S.Ct. at 1495, 84 L.Ed.2d at 506.

A pretermination hearing is "an initial check against mistaken decisions-essentially, a determination of whether there are reasonable grounds to believe that the charges against the employee are true and support the proposed action." Loudermill, 470 U.S. at 545-46, 105 S.Ct. at 1495, 84 L.Ed.2d at 506. However, an employee must be given a post-termination hearing at a meaningful time in order to comply with due process requirements. Loudermill, 470 U.S. at 545, 105 S.Ct. at 1495, 84 L.Ed.2d at 507. The pretermination hearing need not be elaborate in order to comply with due process requirements. For example, in Riggins v. Board of Regents of University of Nebraska, 790 F.2d 707 (8th Cir. 1986), the Eighth Circuit held that informal meetings with supervisors comply with pretermination due process requirements. Id. at 711.

If a court concludes that a former Central Staff Agency employee can only be discharged for just cause and, as result, the employee has a constitutionally protected property interest in continued employment, then the agency must be able to establish that it afforded the employee with Loudermill due process. If Loudermill due process was not afforded, then the employer will be liable under § 1983. This can present a real problem for a government employer who terminates an at-will employee generally do not follow Loudermill due process procedures. It may be possible for the agency to establish pretermination due

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process as part of the investigation and disciplinary process. However, I do not believe that the grievance procedures created by the Guidelines provide for a trial-like post-termination hearing required by Loudermill. Neither Part XII as it is presently drafted nor any of the proposed revisions to that part provide for a trial-like post-termination hearing. While an employee can call witnesses, there is no requirement or process by which to compel the witness to testify. There is no express authority to examine and cross-examine witnesses. Nor is there an express right to be represented by counsel, at the employee's sole expense, in the grievance proceeding.

## **II. PART IV**

Part IV deals with employee compensation. For the reasons discussed elsewhere, the references to "permanent" employees should be deleted from Part IV.E. In Part IV.F, the Guidelines discuss overtime and compensatory time for agency employees. For most public employers, such a policy should be reviewed for compliance with the Fair Labor Standards Act (29 U.S.C. § 201 et seq.). However, this policy does not need to be reviewed for potential compliance problems because the FLSA is not applicable to persons who are employed by the legislative branch or legislative bodies. 29 U.S.C. § 203(e)(2)(C)(V).

## **III. PART VI**

Part VI deals with leave, including family medical leave issues. For most public employers, such a policy should be reviewed for compliance with the Family Medical Leave Act (29 U.S.C. § 2601 et seq.). However, this policy does not need to be reviewed for potential compliance problems because the FMLA is not applicable to legislative employees. 29 U.S.C. § 2611.

Part VI.C.1.a deals with vacation leave. Subparagraph (i) refers to "permanent" employees. As discussed elsewhere in this letter, any reference to "permanent" employees must be deleted from the Guidelines. I would suggest the use of the terms "full-time employees" instead of "permanent employees".

Part VI.C.2.b deals with sick leave without pay and provides as follows:

After all sick leave with pay has been exhausted, the director may, upon written request, grant sick leave without pay to an employee for a length of time the

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director determines is appropriate. If an employee requests to use sick leave without pay in excess of 30 days, the director shall consult the employee's attending physician or other licensed practitioner. The employee may be terminated or must return to work immediately if the director determines that any of the following are true:

- i. The employee fails or refuses to supply requested information about the illness within a stated time.
- ii. The employee does not show sufficient continued reason to prevent the performance of duties.
- iii. The employee is performing work or activity incompatible with the purpose for which sick leave was granted.

As presently drafted, this paragraph is fraught with potential Americans with Disabilities Act problems. I am drafting a revised sick leave policy which is more consistent with the ADA. My concerns about the leave policy will be discussed in greater detail when I submit a revised policy later next week.

#### IV. PART XI

Part XI deals with demotions and terminations. One of the issues which should be considered is whether the General Assembly wants to adopt what is commonly referred to as a progressive disciplinary policy.

Conceptually, progressive discipline policies help the employer preserve an efficient, productive workplace, and communicate to employees how performance or behavior issues will be addressed. Employers often adopt progressive discipline policies to make sure that discipline affords a measure of due process, is consistent and equitable, and reinforces employee compliance with work rules. Progressive discipline policies range from a simple paragraph to detailed systems which set out each step, form of discipline, and penalty. While predictability of discipline is important, employers must retain the discretion and flexibility to impose a variety of penalties or no penalties



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depending on the circumstances of the violation.

Without a doubt, there are significant advantages associated with a progressive discipline policy. Some of the advantages of such a policy are (1) discouraging repeated offenses by employees; (2) communicating to employees the employer's approach to, and the consequences of, violations of work rules or continuing performance issues; (3) providing employees with a measure of due process; (4) ensuring that discipline is being imposed consistently, equitably, and predictably among employees; (5) incorporating a review mechanism which will identify and address deficiencies with specific time limits; and (6) encouraging identification of specific actions steps toward improvement rather than premature termination of employment. Another important advantage of a progressive discipline policy is that such policies are viewed favorably by courts and regulatory agencies and, if applied appropriately, may undercut a claim of discriminatory disparate treatment.

As with all employment policies, there are disadvantages associated with the use of progressive discipline policies. Some of the disadvantages are (1) it could possibly change the employment-at-will relationship to termination for cause; (2) the policy may be overly rigid or detailed and so cumbersome that they fail under the weight of their own process; (3) the policy may make it difficult to strike a balance between procedural fairness for employees and power and control on the part of management; (4) it may be viewed by employees as "stacking the deck"; and (5) it must be applied fairly by all supervisors and training is required.

From my perspective, the issue is whether the Legislative Council will formally adopt a progressive discipline policy or whether progressive discipline principles will be used in employment-related decisions. Generally, I advise employers to use progressive discipline principles for all employee discipline and termination decisions, including at-will employees, because that is precisely what juries expect. As one commentator observed:

Jurors hold employers to very high, sometimes unattainable standards when it comes to disciplining, demoting, firing and protecting employees. Jurors expect clear, written policy on anything that affects employees. If there is no written policy, the defendant is in big trouble. If there is a policy that wasn't followed, it gets worse. Jurors expect clear, fair,

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consistent performance evaluations. They expect clear and consistent written communication. They expect everyone from line supervisors to the CEO to know about the problems of any and all workers. If an employee has a performance problem or attitude problem, that problem-as are all efforts by the employer to help the employee-should be well documented.

In short, in employment litigation, jurors expect about everything that almost never happens. Before demoting or firing, jurors expect an employee to receive a series of warnings, counseling/coaching sessions, training sessions, job adjustments, more coaching, and when, and only when, everything else has failed, at least one more warning.

Dr. Ross P. Laguzza, "Why Jurors in Employment Cases Don't Care About the Evidence, *Employment Law Strategist*, October 1993.

If the General Assembly adopts a progressive discipline policy, the policy should be written and distributed to all covered employees. The key to avoiding erosion of the employment-at-will status of Central Staff Agencies employees is the use of a disclaimer in any progressive discipline policy. I am in the process of drafting a proposed progressive discipline policy for your consideration and discussion. The proposed language should be completed early next week.

#### V. PART XI

Part XI also provides that directors have the "discretionary authority" to suspend, demote, and terminate employees. The use of the term "discretionary authority" is confusing. Directors should have the authority to take disciplinary action subject to the grievance procedures established in Part XII. Therefore, I recommend that the term "discretionary authority" be deleted and use the term "authority" in its place. In my opinion, there is no need to specifically refer to the grievance procedures since an employee has the express right, under the Guidelines, to file a grievance.

#### VI. PART XII

Part XII deals sets forth the grievance procedures available to employees.

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You have prepared two proposed revisions to Part XII. Those revisions are good and solve the problems with the grievance procedures which I have mentioned earlier.

Under one of the proposed revisions to Part XIII, the definition of "grievance" provides guidance on what is reviewed. Under that definition, a "grievance" means:

a complaint filed by an employee against a director for agency action affecting the employee and relating to any of the following:

a. Employment requirements which are alleged to have an unlawful purpose.

b. Employment conditions alleged to violate any applicable federal or state constitutional or statutory provisions relating to civil rights or other protected status or fundamental rights, employment discrimination, occupational safety and health, wage payment, withholding, wage assignments, and hours of work.

c. A lawful disclosure of information pursuant to federal or state law regarding the agency or an abuse of authority.

This revised language identifies with greater particularity what will be reviewed in the grievance process. However, I do have some suggestions. I am not sure what the distinction is between subparagraphs "a" and "b". Therefore, I propose that subparagraph "a" be revised to read as follows: "Employment decisions which are alleged to be contrary to the Personnel Guidelines for Central Staff Agencies." For example, this would permit an employee to challenge a director's decision not to award a certain type of leave. But, given the use of disclaimers, it should not erode the at-will employment status of employees. Finally, I do not understand the reference to "hours of work" in subparagraph "b". As discussed above, the Fair Labor Standards Act is not applicable to state legislative employees which is suggested by the "hours of work" reference.

Neither Part XII as presently drafted nor any of the revisions address what

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the powers of the Committee and the Council are with respect to the employment decision which is the subject of the grievance. I assume that the either body could affirm, reverse, or modify the employment decision of the director based on the information presented. Therefore, I recommend that Part XII should be revised to expressly state the powers of the Committee and the Council. I will provide you with suggested language early next week.

#### **VII. PART XVI**

Part XVI deals with personnel records. Under Part XVI, the agency will retain a former employee's personnel file for two years and then send it to the General Services Record Center. Personnel file sent to the record center should not be destroyed for a substantial period of time. While an employee must file a charge of discrimination within 180 days after discharge, personnel files should be retained for at least five years, if they are destroyed at all. In employment litigation, there is a rule of thumb that a discharged employee who brings suit against her former employer can conduct discovery into matters for five years preceding the date of termination. Personnel files are an important tool for management to rebut claims of disparate treatment. While this does not need to be included in the Guidelines, it should be part of records retention policy of each agency.

In addition, Part XVI provides "[a]ll records shall be held as confidential in accordance with Code Section 19A.15." First, I do believe that the reference to Iowa Code § 19A.15 is inappropriate. That section deals with the personnel files maintained by the Department of Personnel. Instead, I believe that Iowa Code § 22.7(11), which provides that "personal information in confidential personnel records of public bodies" are not public records available for inspection and copying under the Open Records Act, is the more appropriate statutory reference. Moreover, not all records maintained in an employee's personnel file are confidential under Iowa Code § 22.7(11). For example, payroll information maintained in personnel files is usually considered to be public information. But information related to disciplinary action taken against an employee is usually considered to be confidential. Therefore, I propose that the last sentence of Part XVI read: "All such records shall be treated as confidential records to the extent permitted by Iowa Code § 22.7(11).

#### **IX. UNAUTHORIZED COMPUTER ACCESS (HACKING)**

Part XVII deals with unauthorized computer access or what is commonly

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referred to as hacking. Part XVII deals only with unauthorized computer access by agency employee and does not address the employer's right to regulate and monitor employees' use of e-mail, voice mail, computer files, and the Internet. Since my involvement with legislative employment matters, there have been at least two incidents involving employees misuse of e-mail, voice mail, or computers. Consequently, I recommend that the Legislative Council consider developing a policy dealing with the employer's right to regulate and monitor employees' use of communication mediums such as e-mail, voice mail, computers, and the Internet.

Such a policy implicates a number of legal considerations. Nearly all states have recognized a common law "invasion of privacy" claim by employees against employers. In addition to invasion of privacy claims, public employers are subject to the first, fourth, fifth, and fourteenth amendments to the Constitution; in particular, constitutional limitations on searches and seizures. A public employer can therefore be sued, under 42 U.S.C. 1983, if it infringes upon an employee's "legitimate expectation of privacy." O'Connor v. Ortega, 480 U.S. 709 (1987). Moreover, the Wire and Electronic Communications Interception and Interception of Oral Communications Act (18 U.S.C. 2510 et seq.), the Stored Wire Communications Act (18 U.S.C. 2701 et seq.), and the Communications Decency Act (42 U.S.C. 223 et seq.) are implicated by a policy regulating the use of certain communication mediums. At this time, I am working on developing such a policy and it should be completed next week.

#### IX. PART XXI

Part XXI sets forth the substance abuse policy. The substance abuse policy is similar to the substance abuse policy applicable to executive branch agencies. In my opinion, the substance abuse policy for executive branch agencies suffers from a number of important shortcomings would should be addressed. My concerns about the substance abuse policy will be discussed in greater detail when I submit a revised policy later next week.

In addition, the policy, as presently drafted, may be inconsistent with an employer's rights under the Americans with Disabilities Act. For example, it is not a violation of the ADA for an employer to:

1. Prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

2. Require that employees not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;
3. Require that employees behave in accordance with the Drug-Free Workplace Act of 1988;
4. Hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that the employer hold for other employees (even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of the employee; or
5. Require employees to comply with applicable standards established under federal regulations.

42 U.S.C. § 12114(c). Thus, it is permissible to discipline employees who have chemical dependency problems for violating the employer's reasonable drug and alcohol rules, attendance standards, and performance standards, so long as those standards are not applied in a discriminatory manner.

While an employer has broad authority under the ADA to discipline employees who have chemical dependency problems, the substance abuse policy set forth in Part XXI would appear to limit an agency's ability to discipline employees. For example, Part XXI.B provides:

An employee shall be offered an opportunity to seek an evaluation and treatment, if necessary, for the alcohol or drug dependency, unless any of the following apply:

1. The employee's violation of paragraph A, subparagraph 1 or 2 compromises the employee's ability to responsibly perform the employee's job duties or compromises the employer's fulfillment of the agency's mission.
2. The employee has previously violated paragraph A, subparagraph 1 or 2 and has been given a final written warning or is subject to an executed last chance agreement to refrain from further violation of Paragraph A, subparagraph 1 or 2.

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3. The employee's violation is so egregious that summary discharge is the appropriate action.

Under the ADA, an employer is not always obligated to provide leave of absences to an employee with an alcohol problem. See EEOC Technical Assistance Manual § 3.5; Schmidt v. Safeway Inc., 864 F.Supp. 991 (D.Or. 1994). For example, an employer would not be obligated to grant repeated leaves of absence for an alcoholic employee who has been through treatment which has been unsuccessful. Or, an employer would not be obligated to grant a leave of absence for an alcoholic employee when it would be undue burden. Generally, I recommend that employers do not impose greater restrictions on their actions than are not required by state or federal law.

#### X. MISCELLANEOUS MATTERS

There are a number of other issues that I want to raise about the legislative employment issues, but I am not sure whether the Guidelines is the most appropriate forum to do so. Some of those issues include attendance requirements (important to establish attendance is an essential function of positions), work performance, property use, and workplace violence issues. We can discuss these issues in greater detail at a later date.

Please feel free to contact me if I can be of any further assistance on this matter. Best regards.

Sincerely,



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GKD

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June 14, 1996

**MEMORANDUM**

**TO: CHAIRPERSON MICHAEL GRONSTAL AND MEMBERS OF THE SERVICE COMMITTEE**

**FROM: DIANE BOLENDER** *DB*

**RE: 1996 ANNUAL PERSONNEL REPORTS OF CENTRAL LEGISLATIVE STAFF AGENCIES**

Pursuant to the Personnel Guidelines for the central legislative staff agencies adopted by the Legislative Council, enclosed are the following items required to be filed with the Service Committee by each agency during June of each year:

1. Organizational chart showing interrelationship among the authorized positions.
2. Position classifications showing job titles and pay grades.
3. Employee information including names, employment dates, position grades and steps, and merit increase eligibility dates.
4. Overtime accrual for professional and for support staff employees.
5. Direct and indirect costs of educational leave.

The Policies and Procedures Manuals for each of the central legislative staff agencies remain unchanged from last year. Any member who desires a copy of any of the manuals may request a copy from the agency.



# **LEGISLATIVE FISCAL BUREAU**

## **ANNUAL PERSONNEL REPORT JUNE 1996**

**Dennis C. Prouty  
Director**

# LEGISLATIVE FISCAL BUREAU

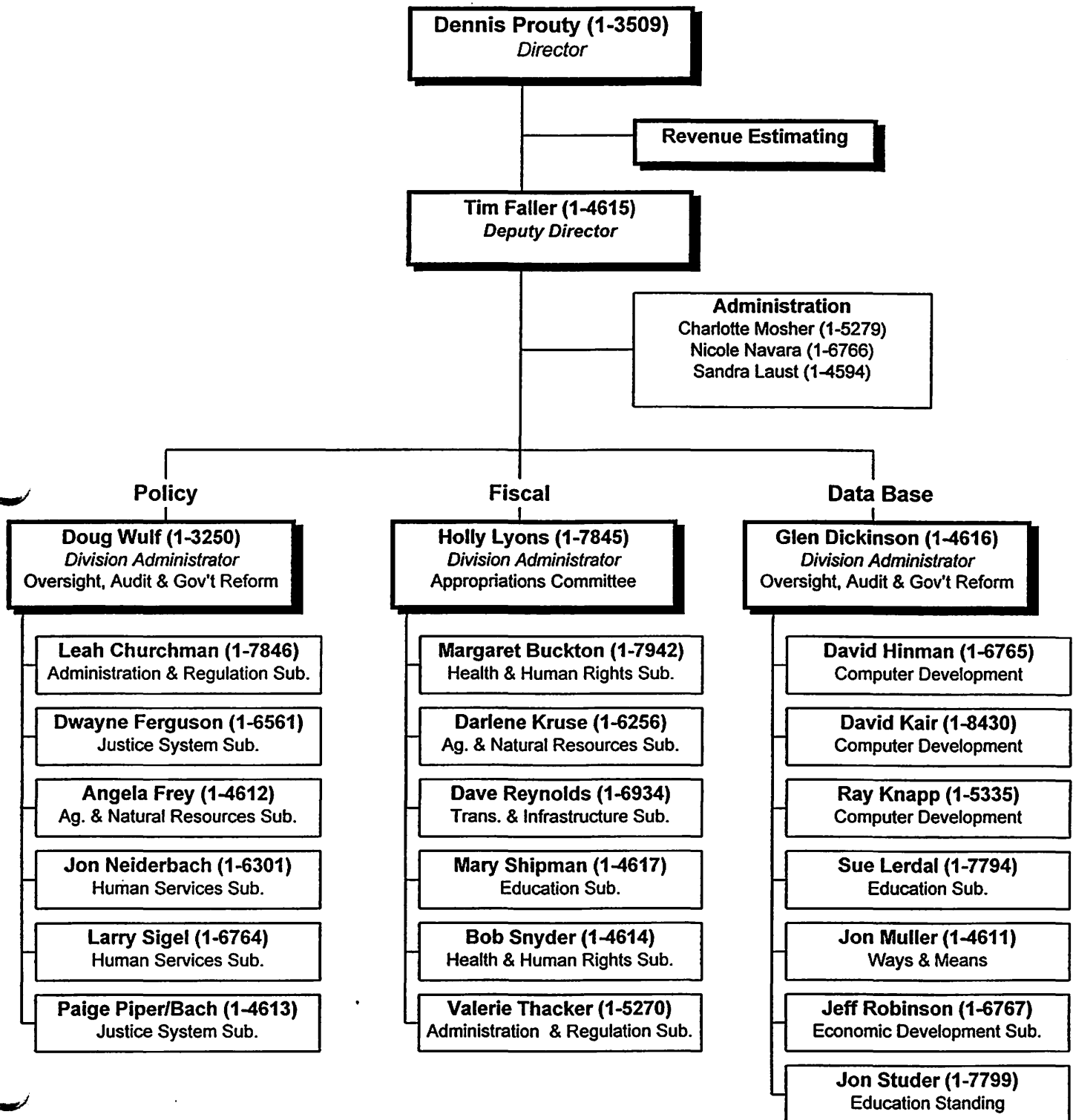
## ANNUAL PERSONNEL REPORT JUNE 1996

### Reporting Requirement

- |  |               |
|--|---------------|
| 1. Organizational Chart                          | Attachment 1  |
| 2. Position Classification System                | *             |
| 3. Annual Personnel Report                       |               |
| a. Employee names, grades/steps                  | Attachment 2a |
| b. Compensatory time earned                      | Attachment 2b |
| c. Compensatory time policy for support staff    | *             |
| 4. Work Attendance Policy and Leave Procedures   | *             |
| 5. Performance Evaluation Forms                  | *             |
| 6. Educational Leave - Direct and Indirect Costs | *             |
| 7. LFB Policies and Procedures Manual            | *             |

\* No changes have been made during FY 1996. Copies of the current schedules are available upon request.

## Iowa Legislative Fiscal Bureau (515) 281-5279



**LEGISLATIVE FISCAL BUREAU**  
**Eligibility Report for Merit Increases**  
**FY 1997**

<u>CLASS/EMPLOYEE NAME</u>	<u>PRESENT GRADE &amp; STEP</u>	<u>EMPLOYMENT DATE</u>	<u>REVIEW DATE</u>
<b><u>DEPUTY DIRECTOR</u></b>			
Faller	41 - 6	7/1/74	N/A
<b><u>DIVISION ADMINISTRATOR II</u></b>			
Dickinson	41 - 6	7/8/88	N/A
Lyons	41 - 6	1/3/84	N/A
<b><u>DIVISION ADMINISTRATOR I</u></b>			
Wulf	38 - 6	2/11/83	N/A
<b><u>SENIOR LEGISLATIVE ANALYST</u></b>			
Lerdal	38 - 3	2/17/89	5/16/97
Neiderbach	38 - 5	12/21/81	4/18/97
Snyder	38 - 3	11/19/84	5/16/97
Robinson	38 - 2	11/17/87	5/2/97
Ferguson	38 - 6	11/27/87	5/30/97
<b><u>LEGISLATIVE ANALYST III</u></b>			
Reynolds	35 - 2	9/18/89	11/29/96
Shipman	35 - 2	12/22/89	11/29/96
Studer	35 - 2	9/5/89	11/29/96
<b><u>LEGISLATIVE ANALYST II</u></b>			
Sigel	32 - 3	8/20/90	6/14/96
<b><u>LEGISLATIVE ANALYST I</u></b>			
Muller	29 - 3	10/5/92	11/29/96
Thacker	29 - 2	10/4/93	11/29/96
Churchman	29 - 2	10/4/93	11/29/96
Kruse	29 - 2	9/20/93	11/29/96
<b><u>LEGISLATIVE ANALYST</u></b>			
Buckton	27 - 3	11/7/94	5/2/97
Frey	27 - 3	11/7/94	5/2/97
Piper/Bach	27 - 2	11/3/95	5/2/97

**LEGISLATIVE FISCAL BUREAU**  
**Eligibility Report for Merit Increases**  
**FY 1997**

<u>CLASS/EMPLOYEE NAME</u>	<u>PRESENT GRADE &amp; STEP</u>	<u>EMPLOYMENT DATE</u>	<u>REVIEW DATE</u>
<u>SR. COMPUTER SYS. ANALYST</u>			
Knapp	35 - 6	1/2/76	N/A
<u>COMPUTER SYSTEM ANALYST III</u>			
Kair	32 - 3	1/26/96	1/24/97
<u>COMPUTER SYSTEM ANALYST II</u>			
Hinman	29 - 3	11/16/92	11/29/96
<u>EXECUTIVE SECRETARY</u>			
Mosher	24 - 5	7/3/90	12/27/96
Navara	24 - 4	11/13/90	10/4/96
<u>ADMINISTRATIVE SECRETARY</u>			
Laust	21 - 4	7/8/93	12/27/96

**LEGISLATIVE FISCAL BUREAU  
OVERTIME and COMPENSATORY TIME  
Fiscal Year 1996**

Attachment 2b

***ELIGIBLE FOR PARTIAL COMPENSATION***

**Professional Staff:**

<u>Name</u>	<u>Overtime Hours</u>	<u>Adjustment first 40</u>	<u>Overtime less 40</u>	<u>Compensatory Hours</u>
Employee 1	447.00	40.00	407.00	120.00
Employee 2	400.00	40.00	360.00	120.00
Employee 3	360.50	40.00	320.50	120.00
Employee 4	341.00	40.00	301.00	120.00
Employee 5	313.00	40.00	273.00	120.00
Employee 6	290.75	40.00	250.75	120.00
Employee 7	251.00	40.00	211.00	120.00
Employee 8	230.75	40.00	190.75	120.00
Employee 9	226.00	40.00	186.00	120.00
Employee 10	198.75	40.00	158.75	120.00
Employee 11	188.50	40.00	148.50	120.00
Employee 12	174.00	40.00	134.00	120.00
Employee 13	171.00	40.00	131.00	120.00
Employee 14	160.00	40.00	120.00	120.00
Employee 15	158.75	40.00	118.75	118.75
Employee 16	153.00	40.00	113.00	113.00
Employee 17	143.25	40.00	103.25	103.25
Employee 18	142.50	40.00	102.50	102.50
Employee 19	132.00	40.00	92.00	92.00
Employee 20	129.25	40.00	89.25	89.25
Employee 21	107.75	40.00	67.75	67.75
Employee 22	73.50	40.00	33.50	33.50
Employee 23	47.00	40.00	7.00	7.00
Employee 24	39.90	40.00	0.00	0.00
<b>Total Hours</b>	<b>4,879.15</b>	<b>960.00</b>	<b>3,919.25</b>	<b>2,407.00</b>
<b>Average</b>	<b>203.30</b>		<b>163.30</b>	<b>100.29</b>

**LEGISLATIVE SERVICE BUREAU**

**1996**

**ANNUAL PERSONNEL REPORT**

**Diane Bolender  
Director**

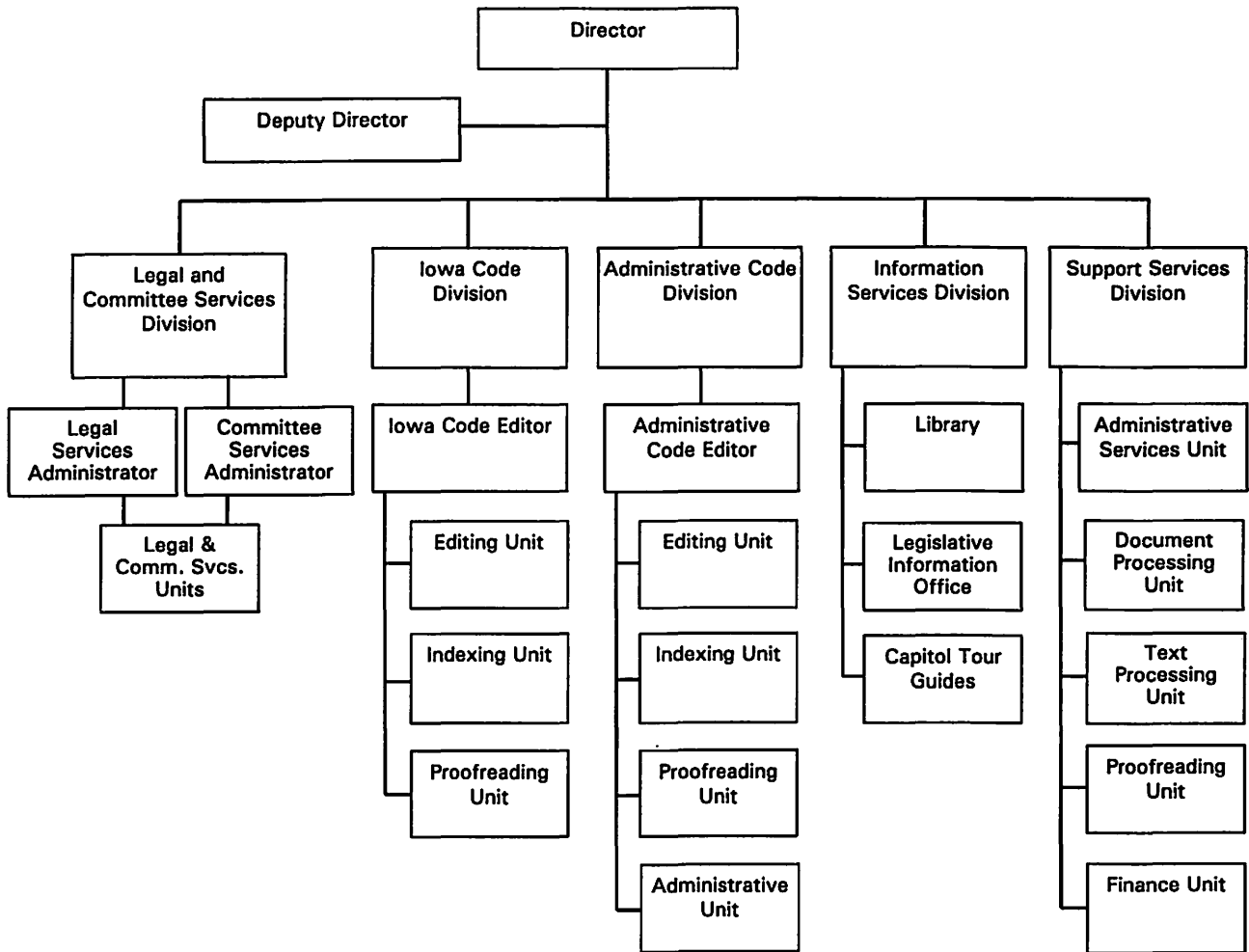
## **Chapter 2. ORGANIZATIONAL STRUCTURE OF THE LEGISLATIVE SERVICE BUREAU**

### **I. IOWA LEGISLATIVE SERVICE BUREAU ORGANIZATIONAL CHARTS**

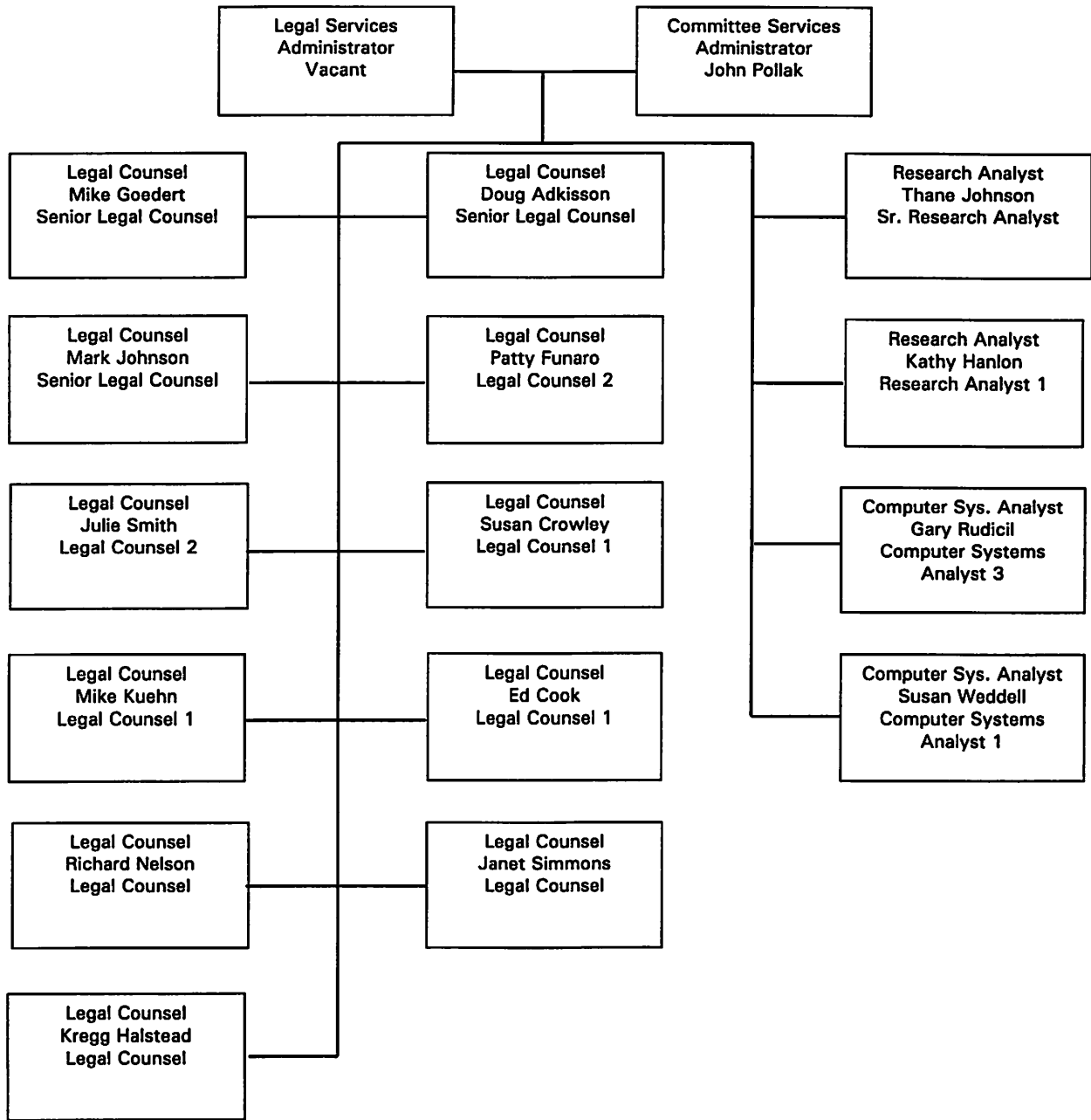
- A. Organization by Division**
- B. Legal and Committee Services Division**
- C. Iowa Code Division**
- D. Information Services Division**
- E. Support Services Division**



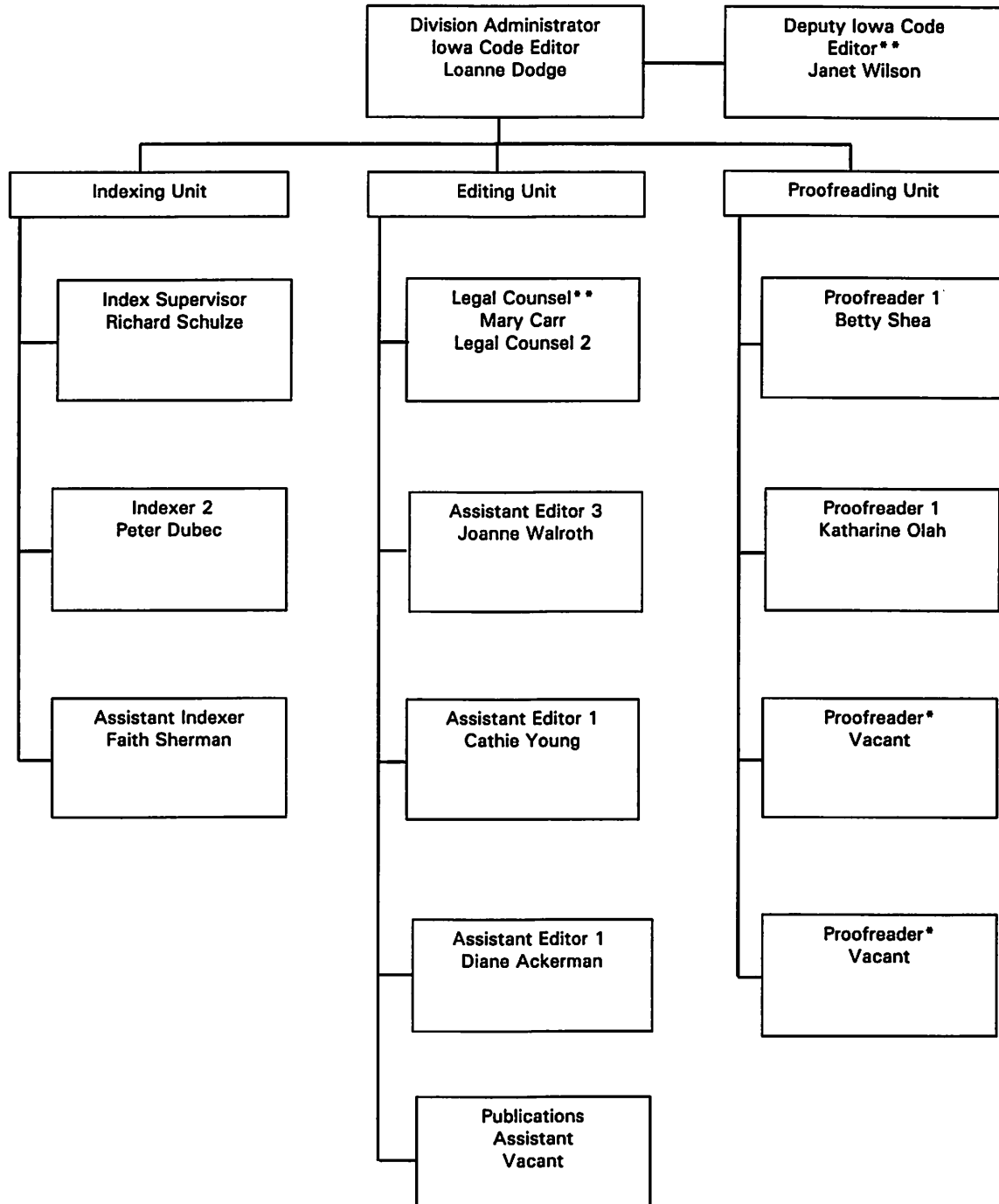
## A. Organizational Chart



## B. Legal and Committee Services Division



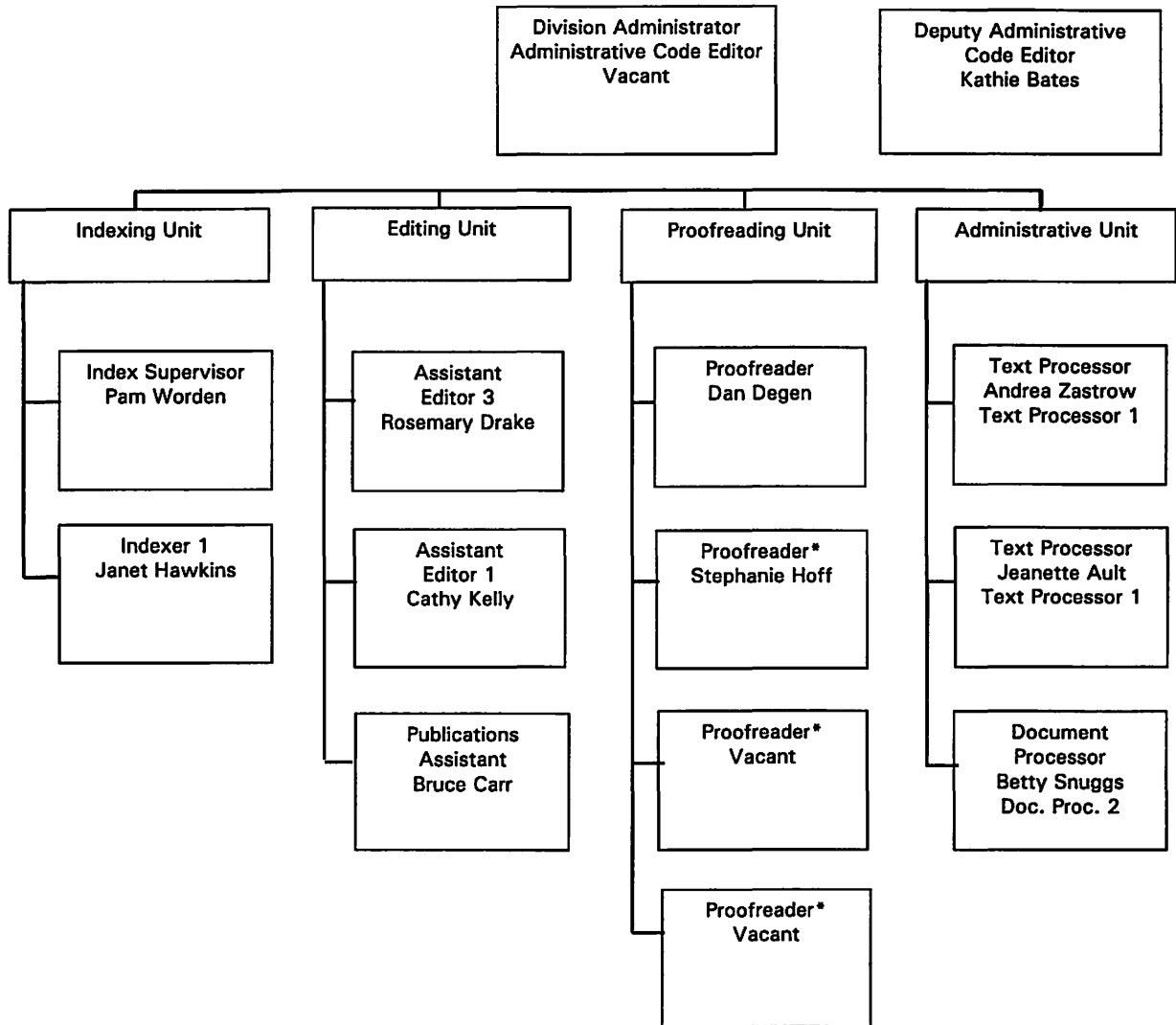
### C. Iowa Code Division



\* These positions are not permanent full-time positions.

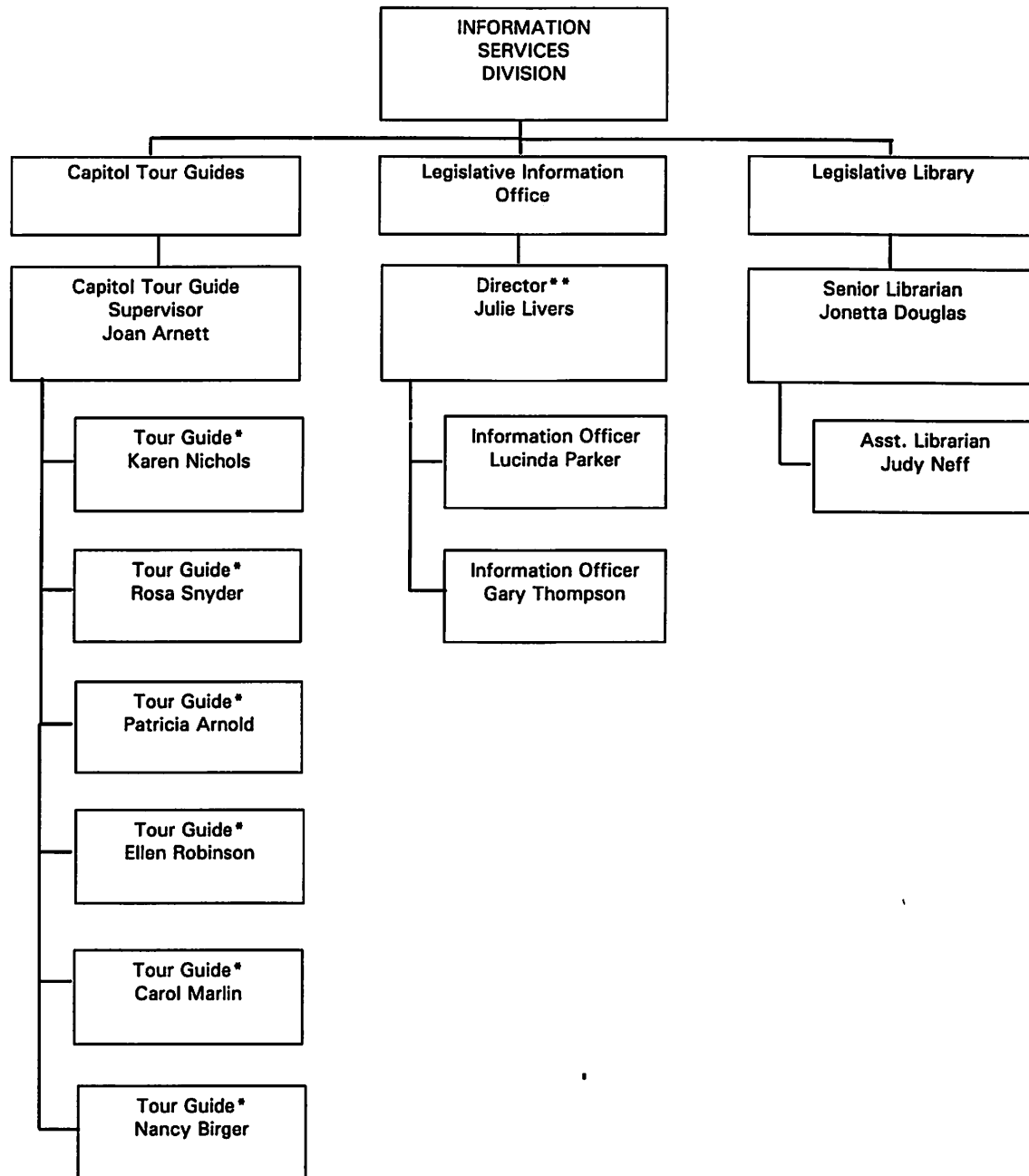
\*\* These positions are half-time positions.

## D. Administrative Code Division



\*These positions are not permanent full-time positions.

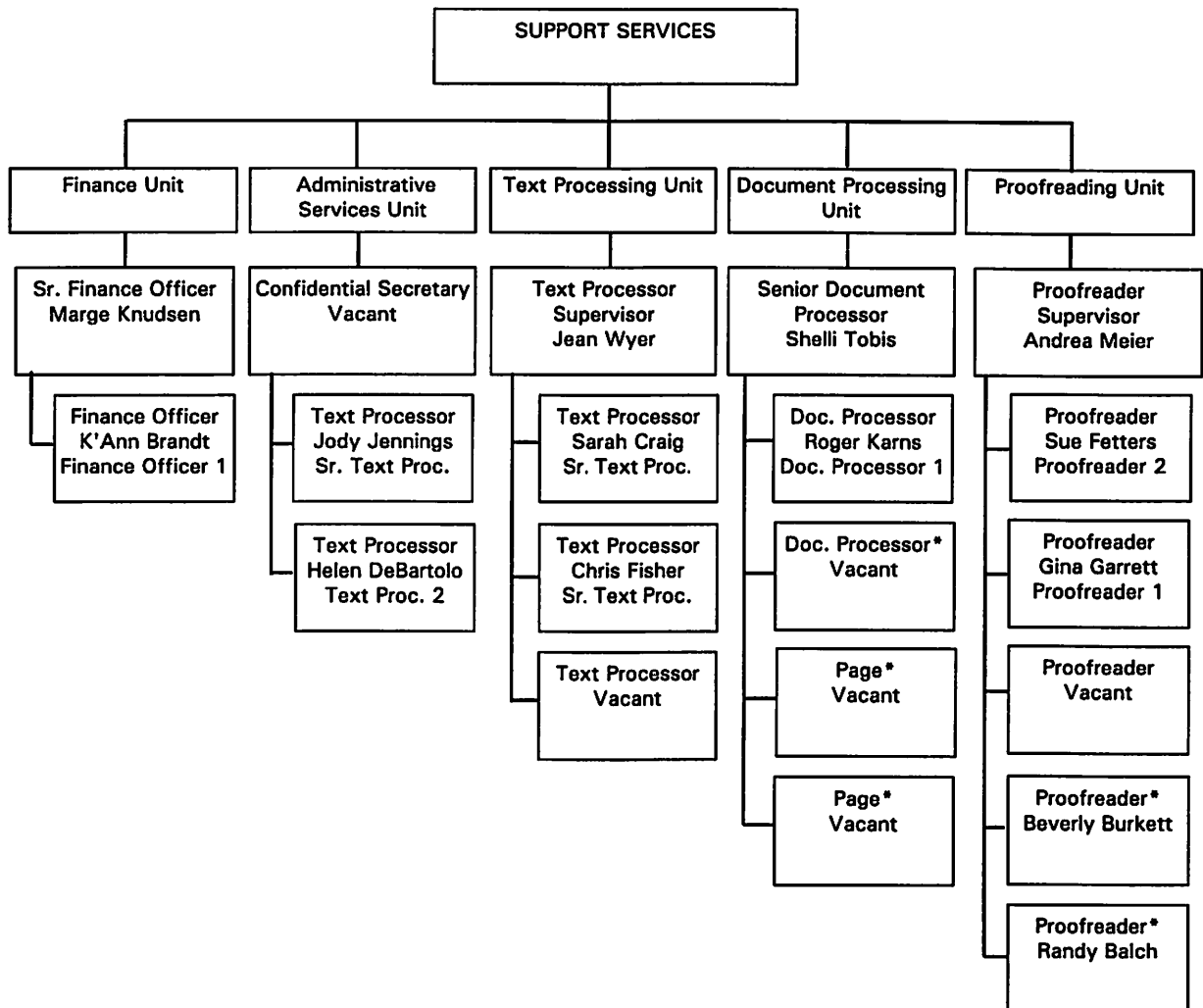
## E. Information Services Division



\*These positions are not permanent full-time positions.

\*\*This position assists in personnel work for the Capitol Tour Guides.

## F. Support Services Division



\*These positions are not permanent full-time positions.

NOTE: The specific positions may be transferred among the five work units and other divisions as needed.

**LEGISLATIVE SERVICE BUREAU**  
**Position Classification System**

<u>POSITION CLASSIFICATION</u>	<u>PAY GRADE</u>
Deputy Director	41
Division Administrator 2	41
Division Administrator 1	38
Iowa Code Editor	38
Administrative Code Editor	38
Senior Legal Counsel	38
Senior Research Analyst	38
Legal Counsel 2	35
Research Analyst 3	35
Senior Computer Systems Analyst	35
Deputy Iowa Code Editor	35
Deputy Administrative Code Editor	35
Legal Counsel 1	32
Research Analyst 2	32
Computer Systems Analyst 3	32
Senior Finance Officer	31
Legal Counsel	30
LIO Director	30
Assistant Editor 3	30
Research Analyst 1	29
Computer Systems Analyst 2	29
Index Supervisor	28
Text Processor Supervisor	28
Research Analyst	27
Computer Systems Analyst 1	27
Senior Librarian	27
Assistant Editor 2	27
Confidential Secretary	27
Finance Officer 2	27
Indexer 2	25
Senior Text Processor	25
Document Processor Supervisor	25
Computer Systems Analyst Trainee	24
LIO Officer	24
Assistant Editor 1	24
Librarian	24

**LEGISLATIVE SERVICE BUREAU**  
**Position Classification System**

<u>POSITION CLASSIFICATION</u>	<u>PAY GRADE</u>
Executive Secretary	24
Finance Officer 1	24
Assistant Librarian	22
Indexer 1	22
Text Processor 2	22
Senior Document Processor	22
Proofreader Supervisor	22
Publications Assistant	21
Administrative Secretary	21
Assistant Finance Officer	21
LIO Assistant	19
Assistant Indexer	19
Text Processor 1	19
Document Processor 2	19
Proofreader 2	19
Document Processor 1	16
Proofreader 1	16
Capitol Tour Guide Supervisor	14
Assistant Document Processor	13
Capitol Tour Guide	12
LSB Page	minimum wage

Job descriptions for these classifications are contained in Chapter 2 of the Legislative Service Bureau Policies and Procedures Manual.



**LEGISLATIVE SERVICE BUREAU**  
**Eligibility Report for Merit Increases**  
**FY 1997**

<u>Employee</u>	<u>Present Grade &amp; Step</u>	<u>Employment Date</u>	<u>Review Date</u>
<b>Director</b>			
Bolender	00-0	09/11/67	00/00/00
<b>Deputy Director</b>			
Johnson, R.	41-6	07/10/78	00/00/00
<b>LEGAL AND COMMITTEE SERVICES DIVISION</b>			
<b>Legal Services Administrator</b>			
Vacant	38		
<b>Committee Services Admin.</b>			
Pollak	38-4	11/16/87	05/02/97
<b>Senior Legal Counsel</b>			
Goedert	38-6	07/14/76	00/00/00
Adkisson	38-5	12/22/86	12/13/96
Johnson, M.	38-5	01/24/87	12/13/96
<b>Legal Counsel 2</b>			
Funaro	35-6	12/17/86	00/00/00
Smith	35-5	12/07/89	12/27/96
<b>Legal Counsel 1</b>			
Crowley	32-4	10/08/90	06/14/96
Kuehn	32-4	10/22/90	06/14/96
Cook	32-3	11/09/92	06/14/96
<b>Legal Counsel</b>			
Halstead	30-2	10/25/95	05/02/97
Nelson	30-2	11/06/95	05/16/97
Simmons	30-2	11/15/95	05/16/97
<b>Senior Research Analyst</b>			
Johnson, T.	38-6	08/01/69	00/00/00
<b>Research Analyst 1</b>			
Hanlon	29-4	01/21/91	06/14/96
<b>Computer Systems Analyst 3</b>			
Rudicil	32-5	07/05/89	12/27/96

<u>Employee</u>	<u>Grade &amp; Step</u>	<u>Employment Date</u>	<u>Review Date</u>
<u>Computer Systems Analyst 1</u> Weddell	27-3	11/06/87	06/14/96
<b>IOWA CODE DIVISION</b>			
<u>Code Editor</u> Dodge	38-4	01/14/80	06/14/96
<u>Deputy IA Code Editor</u> Wilson	35-6	12/01/83	00/00/00
<u>Legal Counsel 2</u> Carr, M.	35-5	10/09/89	04/18/97
<u>Assistant Editor 3</u> Walroth	30-1	08/24/92	02/21/97
<u>Assistant Editor 1</u> Young Ackerman	24-2 24-1	01/03/89 11/19/93	12/13/96 06/28/96
<u>Iowa Code Index Supervisor</u> Schulze	28-5	06/27/86	06/14/96
<u>Indexer 2</u> Dubec	25-6	10/09/87	00/00/00
<u>Publications Assistant</u> Vacant	21		
<u>Assistant Indexer</u> Sherman	19-2	03/20/95	09/20/96
<u>Proofreader 1</u> Shea Olah	16-2 16-2	05/15/95 06/16/95	11/15/96 12/13/96
<b>ADMINISTRATIVE CODE DIVISION</b>			
<u>Admin. Code Editor</u> Vacant	38		
<u>Acting Admin. Code Editor</u> Bates	35-2	06/13/86	06/14/96

<u>Employee</u>	<u>Grade &amp; Step</u>	<u>Employment Date</u>	<u>Review Date</u>
<u>Assistant Editor 3</u> Drake	30-2	10/14/88	12/27/96
<u>Assistant Editor 1</u> Kelly	24-1	03/27/95	06/28/96
<u>Publications Assistant</u> Carr, B.	21-1	01/26/96	07/26/96
<u>Admin. Code Index Supervisor</u> Worden	28-5	04/27/72	06/14/96
<u>Legislative Text Processor 2</u> McKnight	22-3	02/15/93	02/07/97
<u>Legislative Text Processor 1</u> Zastrow	19-1	03/18/96	09/20/96
<u>Indexer 1</u> Hawkins	22-3	07/31/92	06/14/96
<u>Document Processor 2</u> Snuggs	19-6	03/25/85	00/00/00
<u>Proofreader 1</u> Degen	16-4	06/16/95	01/10/97
<b>INFORMATION SERVICES DIVISION</b>			
<u>Legislative Information Director</u> Livers	30-6	04/09/90	00/00/00
<u>Legislative Information Officer</u> Parker	24-5	09/05/89	03/07/97
Thompson	24-4	01/08/90	07/12/96
<u>Senior Librarian</u> Douglas	27-5	10/23/89	12/27/96
<u>Assistant Librarian</u> Neff	22-5	12/01/92	05/30/97
<u>Capitol Tour Guide Supervisor</u> Arnett	14-6	01/23/76	00/00/00

<u>Employee</u>	<u>Grade &amp; Step</u>	<u>Employment Date</u>	<u>Review Date</u>
<u>Capitol Tour Guide</u>			
Nichols	12-6	10/15/76	00/00/00
Snyder	12-3	06/29/93	11/29/96
<b>SUPPORT SERVICES DIVISION</b>			
<u>Confidential Secretary</u>			
Vacant	27		
<u>Senior Finance Officer</u>			
Knudsen	31-6	11/29/66	00/00/00
<u>Finance Officer 1</u>			
Brandt	24-4	06/01/90	11/29/96
<u>Senior Document Processor</u>			
Tobis	22-2	12/12/94	06/14/96
<u>Document Processor 1</u>			
Karns	16-1	12/27/95	06/28/96
<u>Legis. Text Processor Super.</u>			
Wyer	28-6	01/01/67	00/00/00
<u>Senior Legis. Text Processor</u>			
Craig	25-6	11/06/78	00/00/00
Fisher	25-6	11/16/74	00/00/00
Jennings	25-4	11/11/88	06/14/96
<u>Legislative Text Processor 2</u>			
DeBartolo	22-3	10/19/92	12/27/96
Vacant	22		
<u>Legislative Proofreader Super.</u>			
Meier	22-4	12/30/87	06/14/96
<u>Proofreader 2</u>			
Fetters, S.	19-4	09/27/91	12/27/96
<u>Proofreader 1</u>			
Garrett	16-2	06/16/95	06/28/96
Vacant	16		

**LEGISLATIVE SERVICE BUREAU  
MANAGERS & DRAFTERS OVERTIME  
01/01/96 - 05/02/96**

***ELIGIBLE FOR PARTIAL COMPENSATION***

<u>Employee</u>	<u>Overtime Hours</u>	<u>Adjustment first 40</u>	<u>Overtime less 40</u>	<u>Compensatory Hours</u>
1	268.00	40.00	228.00	120.00
2	261.25	40.00	221.25	120.00
3	260.75	40.00	220.75	120.00
4	251.00	40.00	211.00	120.00
5	240.00	40.00	200.00	120.00
6	225.00	40.00	185.00	120.00
7	217.00	40.00	177.00	120.00
8	181.75	40.00	141.75	120.00
9	173.50	40.00	133.50	120.00
10	170.75	40.00	130.75	120.00
11	170.25	40.00	130.25	120.00
12	164.75	40.00	124.75	120.00
13	162.00	40.00	122.00	120.00
14	147.00	40.00	107.00	107.00
15	144.50	40.00	104.50	104.50
16	124.00	40.00	84.00	84.00
17	69.50	40.00	29.50	29.50
<b>Total</b>	<b>3,231.00</b>	<b>680.00</b>	<b>2,551.00</b>	<b>1,885.00</b>
<b>Average</b>	<b>190.06</b>	<b>40.00</b>	<b>150.06</b>	<b>110.88</b>

**LEGISLATIVE INFORMATION OFFICE**

1	298.50	40.00	258.50	120.00
2	149.00	40.00	109.00	109.00
3	91.75	40.00	51.75	51.75
<b>Total Hours</b>	<b>539.25</b>	<b>120.00</b>	<b>419.25</b>	<b>280.75</b>
<b>Average</b>	<b>179.75</b>	<b>40.00</b>	<b>139.75</b>	<b>93.58</b>

**OTHERS**

1	133.25	40.00	93.25	93.25
2	59.00	40.00	19.00	19.00
3	29.00	40.00	0.00	0.00
4	27.50	40.00	0.00	0.00
<b>Total Hours</b>	<b>248.75</b>	<b>160.00</b>	<b>112.25</b>	<b>112.25</b>
<b>Average</b>	<b>62.19</b>	<b>40.00</b>	<b>28.06</b>	<b>28.06</b>

**LEGISLATIVE SERVICE BUREAU  
PERMANENT FULL-TIME SUPPORT STAFF OVERTIME  
01/01/96 - 05/02/96**

***ELIGIBLE FOR FULL COMPENSATION***

<u>Employee</u>	<u>Overtime Hours</u>	<u>Compensatory Hours</u>
1	275.25	412.88
2	208.75	313.13
3	161.00	241.50
4	124.25	186.38
5	124.25	186.38
6	122.25	183.38
7	120.00	180.00
8	111.00	166.50
9	104.00	156.00
10	95.50	143.25
11	84.50	126.75
12	32.50	48.75
Total Hours	1,563.25	2,344.90
Average	130.27	195.41

**LEGISLATIVE SERVICE BUREAU  
ADMINISTRATIVE CODE DIVISION  
PROFESSIONAL AND SUPPORT STAFF OVERTIME  
07/01/95 - 05/02/96**

***ELIGIBLE FOR PARTIAL COMPENSATION***

<u>Employee</u>	<u>Overtime Hours</u>	<u>Adjustment first 40</u>	<u>Overtime less 40</u>	<u>Compensatory Hours</u>
1	94.50	40.00	54.50	54.50
2	83.00	40.00	43.00	43.00
<b>Total Hours</b>	<b>177.50</b>	<b>80.00</b>	<b>97.50</b>	<b>97.50</b>
<b>Average</b>	<b>88.75</b>	<b>40.00</b>	<b>48.75</b>	<b>48.75</b>

**PERMANENT FULL-TIME SUPPORT STAFF OVERTIME  
07/01/95 - 05/02/96**

<u>Employee</u>	<u>Overtime Hours</u>	<u>Compensatory Hours</u>
1	24.45	36.68
2	18.50	27.75
3	9.25	13.88
4	4.00	6.00
5	1.00	1.50
6	0.75	1.13
<b>Total Hours</b>	<b>57.95</b>	<b>86.94</b>
<b>Average</b>	<b>9.66</b>	<b>14.49</b>

**LEGISLATIVE SERVICE BUREAU  
IOWA CODE DIVISION  
PROFESSIONAL AND SUPPORT STAFF OVERTIME  
04/01/95 - 03/31/96**

***ELIGIBLE FOR PARTIAL COMPENSATION***

<u>Employee</u>	<u>Overtime Hours</u>	<u>Adjustment first 40</u>	<u>Overtime less 40</u>	<u>Compensatory Hours</u>
1	91.25	40.00	51.25	51.25
2	76.75	40.00	36.75	36.75
<b>Total Hours</b>	<b>168.00</b>	<b>80.00</b>	<b>88.00</b>	<b>88.00</b>
<b>Average</b>	<b>84.00</b>	<b>40.00</b>	<b>44.00</b>	<b>44.00</b>

**PERMANENT FULL-TIME SUPPORT STAFF OVERTIME  
04/01/95 - 03/31/96**

<u>Employee</u>	<u>Overtime Hours</u>	<u>Compensatory Hours</u>
1	71.75	107.63
2	58.50	87.75
3	39.75	59.63
4	39.00	58.50
5	6.00	9.00
6	1.00	1.50
7	0.50	0.75
<b>Total Hours</b>	<b>216.50</b>	<b>324.76</b>
<b>Average</b>	<b>30.93</b>	<b>46.39</b>



**LEGISLATIVE SERVICE BUREAU**  
**TEMPORARY OR PART-TIME SUPPORT STAFF OVERTIME**  
**01/01/96 - 05/02/96**

<u>Employee</u>	<u>Total Overtime Worked</u>
1	65.00
2	50.00
3	6.25
<b>Total Hours</b>	<b>121.25</b>

## **Educational Leave**

The Legislative Service Bureau did not incur any expenses for educational leave.

STATE OF IOWA



CITIZENS' AIDE/OMBUDSMAN  
CAPITOL COMPLEX  
215 EAST 7TH STREET  
DES MOINES, IOWA 50319-0231  
(515) 281-3592

WILLIAM P. ANGRICK II  
CITIZENS' AIDE / OMBUDSMAN

In reply, please refer to:

June 14, 1996

The Honorable Mike Gronstal  
Chair, Service Committee  
Iowa Legislative Council  
State Capitol  
LOCAL

Dear Senator Gronstal:

Enclosed please find the following report for the Service Committee meeting on June 20, 1996.

**Annual Agency Report including:**

1. organizational chart showing the interrelationships of the authorized positions;
2. position classification system containing job titles, job descriptions, and grade levels for all authorized position classifications;
3. annual personnel report including:
  - a. employees' names, grades and steps, and merit increase eligibility dates,
  - b. annual accrual period for compensatory time and compensatory time earned,
  - c. support staff positions designated as eligible for full compensation for overtime accrued and whether the compensation is overtime pay or compensatory time,
  - d. direct and indirect costs of educational leave during the preceding fiscal year;
4. employee handbook of policies and procedures.

Please let me know if you or any member of the Service Committee have questions or require additional information.

Sincerely,

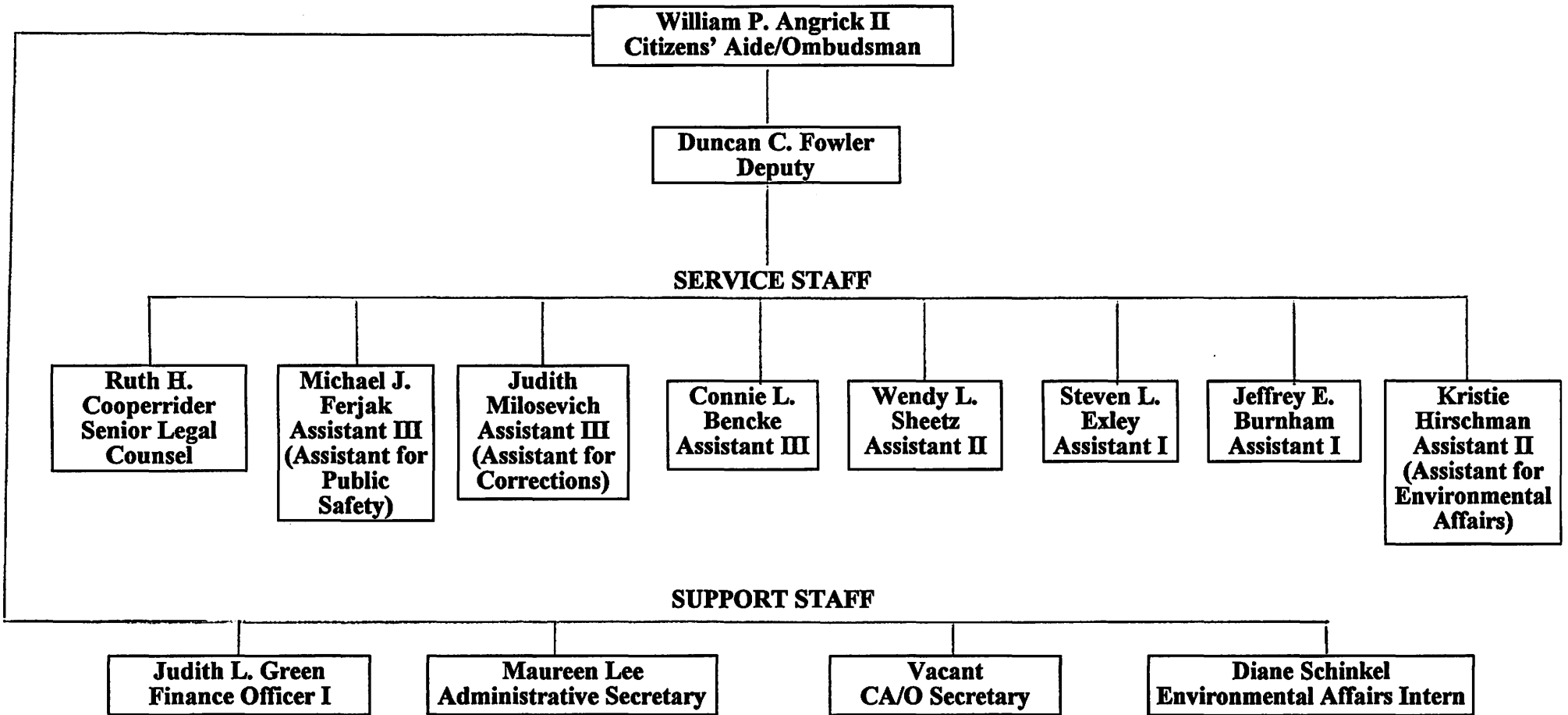


William P. Angrick II

WPA:jg

Enclosures  
sc96ltr

**OFFICE OF CITIZENS' AIDE/OMBUDSMAN  
TABLE OF ORGANIZATION**



## **SPECIAL ASSIGNMENTS**

### **Michael J. Ferjak**

Local Marshals and Police  
Local Fire Protection and Emergency Response Units  
County Sheriffs  
County and Municipal Jails  
Department of Public Safety [DPS] (State Patrol, Capitol Police, Division of Criminal Investigation, and State Fire Marshal)  
Department of Natural Resources [DNR] Conservation Officers  
Department of Transportation [DOT] Enforcement Officers  
State Fair Security Police  
Regents Institutions Campus Security Police  
Law Enforcement Academy  
Regional Police Academies

### **Ruth H. Cooperrider**

Affirmative Action/ADA Compliance Officer  
Office Designee to the Child Support Advisory Committee

### **Connie L. Bencke**

Mental Health Institute [MHI] - Cherokee  
Mental Health Institute [MHI] - Clarinda  
Mental Health Institute [MHI] - Independence  
Mental Health Institute [MHI] - Mt. Pleasant  
Iowa Veterans' Home [IVH] - Marshalltown  
Correctional Treatment Unit [CTU] - Clarinda

### **Wendy L. Sheetz**

Glenwood State Hospital/School [GSHS] - Glenwood  
Woodward State Hospital/School [WSHS] - Woodward  
Iowa Juvenile Home [IJH] - Toledo  
State Training School [STS] - Eldora

### **Judith Milosevich\***

Iowa State Penitentiary [ISP] - Ft. Madison  
John Bennett Correctional Center [JBCC] - Ft. Madison  
Iowa Correctional Institution for Women [ICIW] - Mitchellville  
Mt. Pleasant Correctional Facility [MPCF] - Mt. Pleasant  
Eight Judicial Districts, Department of Correctional Services (Probation and Parole Services, Residential Correctional Services, OWI Facilities and Work Release Facilities)  
Correctional Release Center [CRC] - Newton

### **Steven L. Exley**

Iowa State Men's Reformatory [ISMR] - Anamosa  
Luster Heights [LH] - Harpers Ferry  
Iowa Medical and Classification Center [IMCC] - Oakdale  
North Central Correctional Facility [NCCF] - Rockwell City

\*As the Assistant for Corrections, is not routinely responsible for a non-institutional caseload.

**CITIZENS' AIDE/OMBUDSMAN  
POSITION CLASSIFICATIONS AND PAY GRADES**

<b>POSITION CLASSIFICATION</b>	<b>PAY GRADE</b>	<b>FTE</b>
Deputy	38	filled (1.0 FTE)
Senior Legal Counsel	38	filled (1.0 FTE)
Assistant III	35	filled (3.0 FTE)
Assistant II	32	filled (2.0 FTE)
Assistant I	29	filled (2.0 FTE)
Finance Officer I	24	filled (1.0 FTE)
Administrative Secretary	21	filled (1.0 FTE)
Citizens' Aide/Ombudsman Secretary	19	vacant (1.0 FTE) (1 intermittent)

The agency has 13.0 FTE's authorized (including the Citizens' Aide) and currently employs 12.0 FTE's (including the Citizens' Aide) and one intermittent intern.

**CITIZENS' AIDE/OMBUDSMAN  
ANNUAL PERSONNEL REPORT**

<b>NAME</b>	<b>POSITION</b>	<b>EMPLOY DATE</b>	<b>CURRENT GRADE/ STEP</b>	<b>REVIEW DATE</b>
Fowler, D	Deputy	06/10/94	38/3	12/13/96
Cooperrider, R	Senior Legal Counsel	07/09/90	38/2	06/13/97
Ferjak, M	Assistant III (Assistant for Public Safety)	12/11/87	35/2	12/27/96
Milosevich, J	Assistant III (Assistant for Corrections)	01/16/91	35/3	11/29/96
Bencke, C	Assistant III	08/22/90	35/3	06/13/97
Hirschman, K	Assistant II (Assistant for Environmental Affairs)	11/13/95	32/2	05/16/97
Sheetz, W	Assistant II	09/14/90	32/3	12/13/96
Exley, S	Assistant I	09/16/91	29/6*	06/13/97
Burnham, J	Assistant I	06/05/92	29/3	11/29/96
Green, J	Financial Officer I	07/01/74	24/6*	11/01/96
Lee, M	Administrative Secretary	06/22/89	21/5	12/13/96
Schinkel, D	Environmental Affairs Intern	05/19/95	19/1	Intermittent Intern

\*Top of the Grade/Step

perrept2

June 1996

**CITIZENS' AIDE/OMBUDSMAN  
ANNUAL COMPENSATORY TIME REPORT**

Employees of the office of Citizens' Aide/Ombudsman accrue compensatory time on a calendar year basis (January 1 to December 31).

**CALENDAR YEAR 1995**

Compensatory time accrued after the accumulation of forty hours of overtime.

<u>EMPLOYEE</u>	<u>COMPENSATORY TIME EARNED</u>
1	87.75 hours
2	39.00 hours

**SUPPORT STAFF ANNUAL OVERTIME REPORT**

Support staff of the office of Citizens' Aide/Ombudsman are eligible for overtime pay on a calendar year basis (January 1 to December 31).

**CALENDAR YEAR 1995**

<u>EMPLOYEE</u>	<u>OVERTIME PAID</u>
1	19.50 hours

**EDUCATIONAL LEAVE REPORT**

**FISCAL YEAR 1995**

No educational leave was taken by Citizens' Aide/Ombudsman staff during Fiscal Year 1995. One employee was reimbursed tuition paid for an evening Administrative Law course.

**EMPLOYEE HANDBOOK OF POLICIES AND PROCEDURES**

There have been no additions to the Citizens' Aide/Ombudsman employee handbook of policies and procedures since the June 1995 annual report to the Service Committee:





DENNIS C. PROUTY  
DIRECTOR  
515/281-5279  
FAX 281-8451

STATE CAPITOL  
DES MOINES, IOWA  
50319

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STATE OF IOWA  
LEGISLATIVE FISCAL BUREAU

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## Memorandum

**TO:** Service Committee of the Legislative Council

**FROM:** Dennis C. Prouty, Director

**RE:** Fiscal Bureau Personnel Report - Revised

**DATE:** June 20, 1996

Attached is the revised Legislative Fiscal Bureau's Personnel Report for the period November 30, 1995, through June 20, 1996. The Report covers all personnel action since the last report, which was submitted November 29, 1995.

**LFB PERSONNEL REPORT**

June 19, 1996

PERSONNEL ACTION SINCE LAST REPORT: 11/29/95

**SERVICE COMMITTEE REVIEW**

**MERIT INCREASES:**

<u>NAME</u>	<u>TITLE</u>	<u>PREVIOUS GRADE/STEP</u>	<u>DATE ATTAINED</u>	<u>CURRENT GRADE/STEP</u>	<u>DATE ATTAINED</u>
Jon Studer	Legislative Analyst III	35-1	12/94	35-2	12/95
Dave Reynolds	Legislative Analyst III	35-1	12/94	35-2	12/95
Mary Shipman	Legislative Analyst III	35-1	12/94	35-2	12/95
Jon Muller	Legislative Analyst I	29-2	12/94	29-3	12/95
Dave Hinman	Computer Sys. Analyst II	29-2	12/94	29-3	12/95
Charlotte Mosher	Executive Secretary	24-4	12/94	24-5	12/95
Sandy Laust	Administrative Secretary	21-3	12/94	21-4	12/95
Glen Dickinson	Division Administrator II	41-5	3/95	41-6	3/96
Holly Lyons	Division Administrator II	41-5	5/95	41-6	5/96
Sue Lerdal	Senior Legislative Analyst	38-2	5/95	38-3	5/96
Jon Neiderbach	Senior Legislative Analyst	38-4	4/95	38-5	4/96
Robert Snyder	Senior Legislative Analyst	38-2	5/95	38-3	5/96
Jeff Robinson	Senior Legislative Analyst	38-1	5/95	38-2	5/96
Margaret Buckton	Legislative Analyst	27-2	5/95	27-3	5/96
Paige Piper/Bach	Legislative Analyst	27-1	11/95	27-2	5/96
Angela Frey	Legislative Analyst	27-2	5/95	27-3	5/96

**VACANT POSITIONS:**

Christina Shipman Page

**VACANT POSITIONS FILLED:**

**SICK/PARENTAL LEAVE:**

Darlene Kruse Legislative Analyst I 4/9/96 thru 5/28/96

**SERVICE COMMITTEE APPROVAL**

**PROMOTIONS:**

<u>NAME</u>	<u>FROM</u>		<u>TO</u>	
	<u>TITLE/ DATE ATTAINED</u>	<u>GRADE &amp; STEP/ DATE ATTAINED</u>	<u>TITLE/ DATE ATTAINED</u>	<u>GRADE &amp; STEP/ DATE ATTAINED</u>
Larry Sigel	Legislative Analyst II 6/94	32-4 6/96	Legislative Analyst III	35-2 9/96
Doug Wulf	Division Administrator I 12/92	38-6 5/94	Division Admin. II	41-5 6/96

COMPUTER SUPPORT BUREAU  
PERSONNEL REPORT

June 20, 1996

<u>Employee Name</u>	<u>Position</u>	<u>Previous Gd/Step/Date</u>		<u>Current Gd/Step/Date</u>	
<i><u>Merit Increase</u></i>					
Roger Murtfeld	Division Administrator I	35/4	1/95	35/5	1/96
John Rafdal	Computer Systems Analyst	27/1	10/95	27/2	3/96

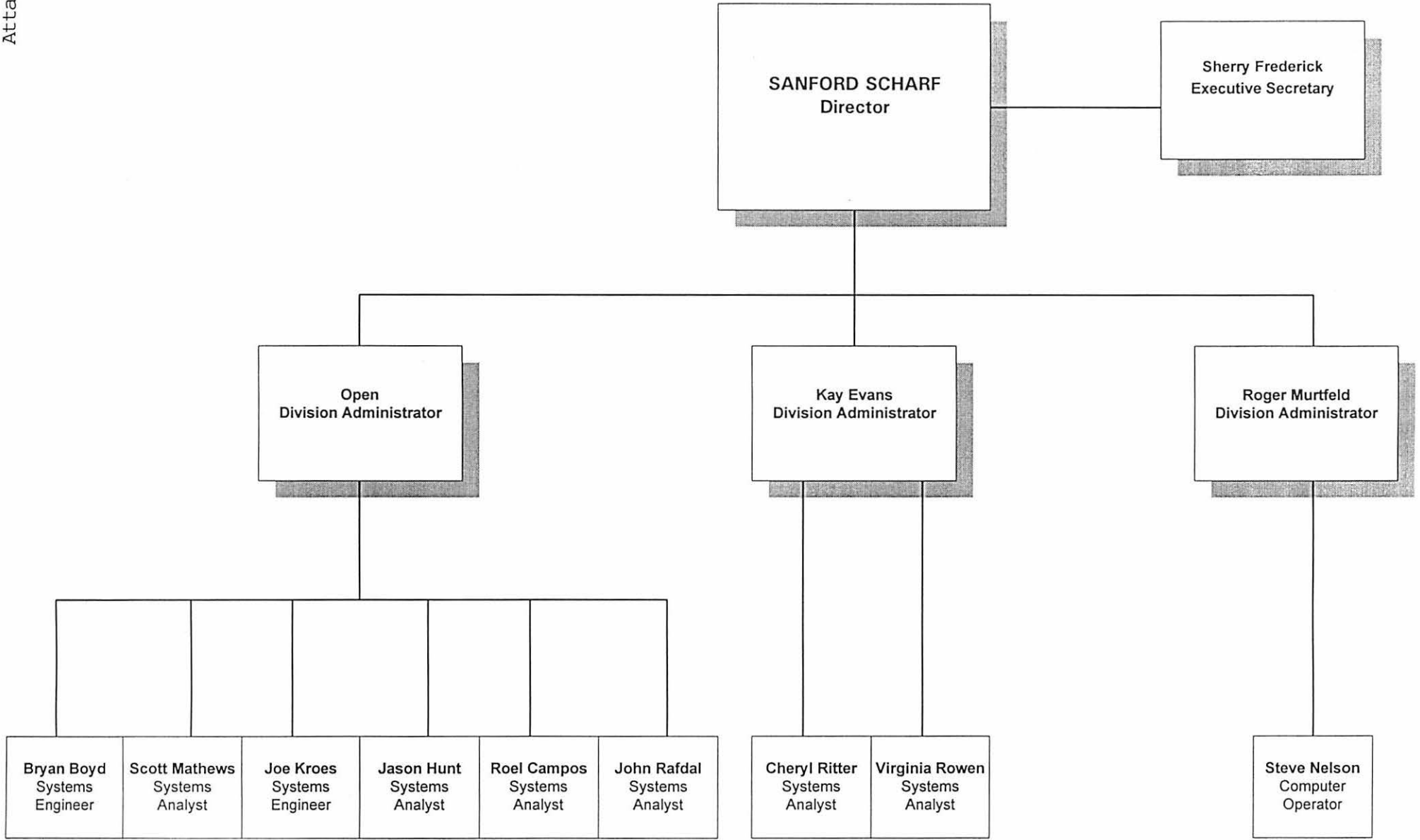
		<u>Effective Date</u>	<u>Current Gd/Step/Date</u>
<i><u>New Hire</u></i>			
Jason Hunt	Computer Systems Analyst I	1/96	27/1
Scott Mathews	Computer Systems Analyst I	1/96	27/1

**LEGISLATIVE COMPUTER SUPPORT BUREAU**  
**ANNUAL PERSONNEL REPORT**  
**JUNE 1996**

**Reporting Requirement:**

- |  |              |
|--|--------------|
| 1. Organizational Chart                      | Attachment 1 |
| 2. Position Classification System            | Attachment 2 |
| 3. Annual Personnel Report to include:       | Attachment 3 |
| a. Employee names, grades/steps              |              |
| b. Compensatory time earned                  |              |
| 4. Work Attendance Policy & Leave Procedures | Attachment 4 |
| 5. Educational Leave - Costs                 | Attachment 5 |

# LEGISLATIVE COMPUTER SUPPORT BUREAU



**LEGISLATIVE COMPUTER SUPPORT BUREAU**

<b><u>POSITION CLASSIFICATION</u></b>	<b><u>PAY GRADE</u></b>
Computer Systems Analyst	24
Computer Systems Analyst I	27
Computer Systems Analyst II	29
Computer Systems Analyst III	32
Senior Computer Systems Analyst	35
Computer Operator-Session Only	21
Computer Operator I	21
Computer Operator II	24
Computer Systems Engineer I	29
Computer Systems Engineer II	32
Senior Computer Systems Engineer	35
Administrative Secretary	21
Executive Secretary	24
Division Administrator I	35
Division Administrator II	38

**LEGISLATIVE COMPUTER SUPPORT BUREAU  
ANNUAL PERSONNEL REPORT  
FY' 96**

<u>NAME</u>	<u>POSITION</u>	<u>CURRENT GD/STEP</u>	<u>MERIT INCREASE ELIGIBILITY DATE</u>	<u>COMPTIME/OR OVERTIME</u>	<u>OVERTIME HOURS 1994</u>
Scharf, Sanford	Director	00/00		CT	N/A
Boyd, Bryan	Computer Systems Engineer II	32/2	6/28/96	CT	N/A
Campos, Roel	Computer Systems Analyst III	32/2	6/28/96	CT	N/A
Evans, Kay	Division Administrator II	38/5	11/15/96	CT	N/A
Frederick, Sherry	Executive Secretary	24/6	Maxed	CT	N/A
Hunt, Jason	Computer Systems Analyst I	27/1	7/12/96	CT	N/A
Kroes, Joe	Computer Systems Engineer I	29/2	11/15/96	CT	N/A
Mathews, Scott	Computer Systems Analyst I	27/1	7/12/96	CT	N/A
Murtfeld, Roger	Division Administrator I	35/5	1/10/97	CT	N/A
Nelson, Steve	Computer Operator II	24/5	11/15/96	OT	145.88
Rafdal, John	Computer Systems Analyst I	27/2	3/21/97	CT	N/A
Ritter, Cheryl	Computer Systems Analyst II	29/5	6/14/96	CT	N/A
Rowen, Virginia	Computer Systems Analyst I	29/5	12/13/96	CT	N/A

Total comptime hours from January 1, 1996 thru June 15, 1996

	<u>Comp Worked</u>	<u>Adjust 1st 40 Hours</u>	<u>Comp/Less Adjust.</u>	<u>Comp. Allowed</u>	<u>Comp. Available</u>
Employee 1	188.50	-40.00	148.50	120.00	72.00
Employee 2	182.25	-40.00	142.25	120.00	47.50
Employee 3	162.00	-40.00	122.00	120.00	118.00
Employee 4	124.25	-40.00	84.25	84.25	84.25
Employee 5	120.00	-40.00	80.00	80.00	38.50
Employee 6	110.00	-40.00	70.00	70.00	54.00
Employee 7	105.25	-40.00	65.25	65.25	57.75
Employee 8	92.75	-40.00	52.75	52.75	40.50
Employee 9	72.00	-40.00	32.00	32.00	32.00
Employee 10	41.50	-40.00	1.50	1.50	1.50

**LEGISLATIVE COMPUTER SUPPORT BUREAU  
WORK ATTENDANCE POLICY**

June 5, 1990

1. The regular office hours for employees of the Legislative Computer Support Bureau are from 8:00 a.m. to 4:30 p.m. Flextime arrangements are acceptable provided that arrangements are in writing and agreed to by the Director.
2. All employees are expected to be at their respective work stations as assigned. When an employee expects to be absent from the employee's work station, the employee is expected to notify the Bureau Secretary and use the IO run on the computer system.
3. One-half hour (unpaid) is allowed for lunch. An employee shall normally take the one-half hour lunch period between 11:00 a.m. and 1:30 p.m. unless prior approval from the Director has been obtained.
4. One-half hour is allowed within the eight total paid work hours for both fifteen minute breaks. If an employee does not use either or both of the two fifteen minute break periods, the break time not used may be added to the lunchtime break. If an employee does not use either or both of the fifteen minute break periods during the day, the time is lost and shall not be added to any overtime total. If an employee does not use the one-half hour lunch break, the time is lost and shall not be added to any overtime total.
5. In order to assure that staffing requirements are met, it may be necessary to schedule lunchtimes and breaks.
6. Each employee is to complete the employee's timesheet at the end of each working day or the following morning. Timesheets should be submitted to the Bureau Secretary by 9:00 a.m. on the Friday following the end of the pay period.
7. In order to meet the workload demands of the Computer Support Bureau, it may be necessary to require overtime hours of employees on short notice.



**LEGISLATIVE COMPUTER SUPPORT BUREAU  
PROCEDURES FOR USE OF LEAVE TIME**

June 5, 1990

1. Employees shall file the standard "Request for Leave" form with the Bureau Secretary at least 24 hours in advance of the starting time of a leave of any type. All leaves must be approved by the Director.
2. A request for use of leave of 8 hours or less need not be submitted in advance.
3. Use of leave time during a legislative session is subject to the prior approval of the Director. Leave time during the legislative interim should be scheduled, to the extent possible, so that the employee does not conflict with the other employees.
4. An employee who will arrive at work more than 20 minutes after the scheduled arrival time must notify the Bureau Secretary and file the appropriate leave form upon arrival.
5. An employee who is sick or injured and cannot report for work must call the Bureau Secretary by 8:30 a.m. and file the appropriate leave form upon returning to work.
6. An absence from work that does not comply with the leave policy may, at the discretion of the Director, be considered an unauthorized absence and payment of salary may be withheld for that period.

## EDUCATIONAL LEAVE

### Educational Leave - Direct & Indirect Costs

Educational funding was granted for Steve Nelson to take the "Netware 4.X ADMIN" class in the amount of \$174.30.

Legislative Computer Support Bureau is updating and revising the job descriptions for the following job series:

**COMPUTER SYSTEMS ANALYST  
COMPUTER SYSTEMS ENGINEER  
DIVISION ADMINISTRATOR**

When the new job descriptions are complete, Computer Support Bureau will forward them to the Legislative Service Committee.

**LEGAL COUNSELS**

Douglas L. Adkisson  
Edwin G. Cook  
Susan E. Crowley  
Patricia A. Funaro  
Michael J. Goedert  
Kregg A. Halstead  
Mark W. Johnson  
Michael A. Kuehn  
Richard S. Nelson  
Janet L. Simmons  
Julie A. Smith

**RESEARCH ANALYSTS**

Kathleen B. Hanlon  
Thane R. Johnson

**GENERAL ASSEMBLY OF IOWA****LEGISLATIVE SERVICE BUREAU**

STATE CAPITOL BUILDING  
DES MOINES, IOWA 50319  
(515) 281-3566  
FAX (515) 281-8027

**DIANE E. BOLENDER**  
DIRECTOR

**RICHARD L. JOHNSON**  
DEPUTY DIRECTOR

**JOHN C. POLLAK**  
COMMITTEE SERVICES ADMINISTRATOR

**LOANNE M. DODGE**  
IOWA CODE EDITOR

**KATHLEEN K. BATES**  
ACTING ADMINISTRATIVE CODE EDITOR

**JULIE E. LIVERS**  
LEGISLATIVE INFORMATION OFFICE DIRECTOR

June 14, 1996

**TO: CHAIRPERSON MICHAEL GRONSTAL AND MEMBERS OF THE SERVICE COMMITTEE**

**FROM: DIANE BOLENDER, DIRECTOR**

**RE: JUNE 1996 MONTHLY PERSONNEL REPORT**

Approval is sought for the following personnel actions:

- For promotions for the individuals named on the attached list.
- For establishment of the legislative document specialist job series in the Legislative Service Bureau. (A job description for each position in the job series is attached.)

Notification is made of the following actions:

- Ms. Kathleen Bates was named Acting Administrative Code Editor upon the retirement of the Administrative Code Editor. The Legislative Service Bureau has advertised for the position and has received applications. Interviews of qualified applicants for the position will begin soon. Section 2B.1, subsection 2, of the Iowa Code, provides that the Director of the Legislative Service Bureau will appoint the Administrative Code Editor, subject to the approval of the Legislative Council.
- Merit step increases granted since November 29, 1995, are included on the attached listing. The listing indicates those employees who have completed their 6-month probationary period.

**LEGISLATIVE SERVICE BUREAU  
PROPOSED PROMOTIONS**

<b>Name</b>	<b>Current Position</b>		<b>Recommended Position</b>
	<b>Job Title</b>	<b>Job Title</b>	<b>Job Title</b>
<b>Date of Hire</b>	<b>Grade</b>	<b>Grade, Step</b>	<b>Grade, Step</b>
	<b>Date Attained</b>	<b>Last Step Increase</b>	<b>Effective Date</b>
<b>John Pollak</b> 11/16/87	<b>Comm. Services Admin.</b> 38 07/17/92	<b>Comm. Services Admin.</b> 38-4 05/03/96	<b>Comm. Services Admin.</b> 41-2 06/28/96
<b>Patty Funaro</b> 12/17/86	<b>Legal Counsel 2</b> 35 12/18/92	<b>Legal Counsel 2</b> 35-6 12/15/95	<b>Senior Legal Counsel</b> 38-4 06/28/96
<b>Susan Crowley</b> 10/08/90	<b>Legal Counsel 1</b> 32 06/18/93	<b>Legal Counsel 1</b> 32-5 06/14/96	<b>Legal Counsel 2</b> 35-3 06/28/96
<b>Michael Kuehn</b> 10/22/90	<b>Legal Counsel 1</b> 32 06/18/93	<b>Legal Counsel 1</b> 32-5 06/14/96	<b>Legal Counsel 2</b> 35-3 06/28/96
<b>Kathy Hanlon</b> 01/21/91	<b>Research Analyst 1</b> 29 06/18/93	<b>Research Analyst 1</b> 29-5 06/14/96	<b>Research Analyst 2</b> 32-3 06/28/96

## **V. Legislative Document Specialist Series**

### **1. Legislative Document Specialist 3. Salary Rate: Grade 30**

- a. Qualifications, Skills, and Ability:** Same as for Legislative Document Specialist 2 except a minimum of two to three years' experience as a Legislative Document Specialist 2 is required. Experience elsewhere may be substituted to some degree depending upon the type of experience. Skills and abilities specified for a Legislative Document Specialist 2 must be demonstrated by proficiency in handling all aspects of the most complex Bureau documents and communications.
- b. Duties:** Same duties as for a Legislative Document Specialist 2 except that a Legislative Document Specialist 3 must handle documents and communications of the most complex nature and must be able to train and supervise more junior Legislative Document Specialists in the completion of all Legislative Document Specialist functions and duties or train and supervise other Bureau employees. Extensive legal publications work may be required. Special projects may be assigned by the Director or the Director's designee which may include research and writing. Overtime is required with partial compensatory time provided.

### **2. Legislative Document Specialist 2. Salary Rate: Grade 27**

- a. Qualifications, Skills, and Ability:** Same as for Legislative Document Specialist 1 except a minimum of two to three years' experience as a Legislative Document Specialist 1 is required. Experience elsewhere may be substituted to some degree depending upon the type of experience. Skills and abilities specified for a Legislative Document Specialist 1 must be demonstrated by proficiency in handling all aspects of Bureau documents and communications.
- b. Duties:** Same duties as for a Legislative Document Specialist 1 except that a Legislative Document Specialist 2 must handle documents and communications of a very complex nature and must be able to train and supervise more junior Legislative Document Specialists in the completion of most ordinary Legislative Document Specialist functions and duties or train and supervise other Bureau employees. Significant legal publications work may be required. Special projects may be assigned by the Director or the Director's designee which may include research and writing. Overtime is required with partial compensatory time provided.

### **3. Legislative Document Specialist 1. Salary Rate: Grade 24**

- a. Qualifications, Skills, and Ability:** Same as for Legislative Document Specialist except a minimum of two to three years' experience as a Legislative Document Specialist is required. Experience elsewhere may be substituted to some degree depending upon the type of experience. Skills and abilities specified for a Legislative Document Specialist must be demonstrated by proficiency in handling all aspects of most Bureau documents and communications.
- b. Duties:** Same duties as for a Legislative Document Specialist except that a Legislative Document Specialist must handle documents and communications of a more complex nature and must be able to assist in the training and limited supervision of more junior Legislative Document Specialists in the completion of ordinary Legislative Document Specialist functions and duties or in the training and supervision of other Bureau employees. Legal publications work may be required. Special projects may be assigned by the Director or the Director's designee which may include research and writing. Overtime is required with partial compensatory time provided.

### **4. Legislative Document Specialist. Salary Rate: Grade 21**

a. **Qualifications, Skills, and Ability:** Graduate of a college or university with a bachelor's degree or equivalent experience. Excellent spelling, English, and grammar skills, word processing skills, the ability to master a complex system of work-product tracking, copying, packaging, and delivery, and the ability to acquire desktop publishing and related editorial skills. Excellent oral and written communication abilities are essential. Aptitude and ability to concentrate and perform meticulous and repetitive work. Ability to work well with others and to meet work product delivery deadlines under sometimes stressful conditions. Knowledge or ability to quickly understand the legislative process, other governmental procedures, and the process for publishing legislative materials. Spelling and reading tests, and a word processing demonstration may be required.

b. **Duties:** Word processing, proofreading, tracking, desktop publishing and related editorial work, copying, packaging, and delivery of legislative bills, amendments, reports, minutes, memoranda, correspondence, agendas, and legal publications. Receipt of in-person, oral, paper, and electronic communications and answering of the communications or referral to the appropriate Bureau personnel. Responsible for paper and electronic filing of work documents, including interim committee and other study committee work products. Performing other projects as assigned by the Director or the Director's designee. Overtime is required with partial compensatory time provided.

g/rj/LegDocSp/5/96

**LEGISLATIVE SERVICE BUREAU  
PERSONNEL REPORT**

**NOTIFICATION OF MERIT STEP INCREASES  
Since November 29, 1995**

Name	Position	Effective Date	
		Previous Grade & Step	Current Grade & Step
K'Ann Brandt	Finance Officer 1	12/2/94 24-3	12/1/95 24-4
Rosa Snyder	Tour Guide	12/2/94 12-2	12/1/95 12-3
Patty Funaro	Legal Counsel 2	12/16/94 35-5	12/15/95 35-6
Catherine Young	Assistant Editor 1	6/16/95 24-1	12/15/95* 24-2
Katharine Olah	Proofreader 1	6/16/95 16-1	12/15/95* 16-2
Jonetta Douglas	Senior Librarian	12/30/94 27-4	12/29/95 27-5
Sue Fetters	Proofreader 2	12/30/94 19-3	12/29/95 19-4
Julie Smith	Legal Counsel 2	12/30/94 35-4	12/29/95 35-5
Gary Rudicil	Computer Systems Analyst 3	12/30/94 32-4	12/29/95 32-5
Helen DeBartolo	Text Processor 2	12/30/94 22-2	12/29/95 22-3
Danny Degen	Proofreader 1	1/13/95 16-3	1/12/96 16-4
Kimberly McKnight	Text Processor 2	2/10/95 22-2	2/9/96 22-3
Joan Arnett	Capitol Tour Guide Super.	2/24/95 14-5	2/23/96 14-6
Lucinda Parker	LIO Officer	3/10/95 24-4	3/8/96 24-5
Mary Carr	Legal Counsel 2	12/30/94 35-4	4/19/96 35-5
John Pollak	Committee Services Administrator	5/5/95 38-3	5/3/96 38-4
Kregg Halstead	Legal Counsel	10/25/95 30-1	5/3/96* 30-2
Richard Nelson	Legal Counsel	11/6/95 30-1	5/17/96* 30-2
Janet Simmons	Legal Counsel	11/15/95 30-1	5/17/96* 30-2



Name	Position	Effective Date	Effective Date
		Previous Grade & Step	Current Grade & Step
Betty Snuggs	Document Processor 2	5/19/95 19-5	5/17/96 19-6
Judy Neff	Assistant Librarian	6/2/95 22-4	5/31/96 22-5
Loanne Dodge	Iowa Code Editor	6/16/95 38-4	6/14/96 38-5
Richard Schulze	ICO Index Supervisor	6/16/95 28-5	6/14/96 28-6
Pam Worden	ACO Index Supervisor	6/16/95 28-5	6/14/96 28-6
Kathleen Bates	Acting Admin. Code Editor	6/16/95 35-2	6/14/96 35-3
Andrea Meier	Proofreader Supervisor	6/16/95 22-4	6/14/96 22-5
Kathy Hanlon	Research Analyst 1	6/16/95 29-4	6/14/96 29-5
Susan Crowley	Legal Counsel 1	6/16/95 32-4	6/14/96 32-5
Michael Kuehn	Legal Counsel 1	6/16/95 32-4	6/14/96 32-5
Edwin Cook	Legal Counsel 1	6/16/95 32-3	6/14/96 32-4
Susan Weddell	Computer Systems Analyst 1	6/16/95 27-3	6/14/96 27-4
Jody Jennings	Senior Text Processor	6/16/95 25-4	6/14/96 25-5
Shelli Tobis	Sr. Document Processor	6/16/95 22-2	6/14/96 22-3
Janet Hawkins	Indexer 1	6/16/95 22-3	6/14/96 22-4

\*completed 6 months probation

NOTIFICATION OF VACANT POSITIONS FILLED  
Since November 29, 1995

Name	Position	Date Filled	Grade & Step
Cathy Kelly	Assistant Editor 1	12/29/95	24-1
Diane Ackerman	Assistant Editor 1	12/29/95	24-1
Roger Karns	Document Processor 1	12/27/95	16-1
Bruce Carr	Publications Assistant	1/26/96	21-1
Andrea Zastrow	Text Processor 1	3/18/96	19-1
Jeanette Alt	Text Processor 1	6/3/96	19-1

## RESIGNATIONS

Dorothea Tim, Proofreader, December 5, 1995  
Judith Kaut, Assistant Editor 1, December 20, 1995  
Pamela Kauffman, Text Processor, January 9, 1996  
Phyllis Barry, Administrative Code Editor, March 1, 1996  
Shonda Clark, Page, April 26, 1996  
Christopher Taylor, Page, May 1, 1996  
Donna Greenwood, Confidential Secretary, May 31, 1996  
Kimberly McKnight, Text Processor 2, June 13, 1996

## PART-TIME POSITIONS FILLED

Carol Marlin, Tour Guide, 11/27/95, 12-1  
Nancy Birger, Tour Guide, 12/04/95, 12-1  
Bruce Carr, Proofreader 1, 12/15/95, 16-1  
Shonda Clark, Page, Minimum wage, 01/08/96  
Christopher Taylor, Page, Minimum wage, 01/08/96  
Stephanie Hoff, Proofreader 1, 02/09/96, 16-1

STATE OF IOWA



CITIZENS' AIDE/OMBUDSMAN  
CAPITOL COMPLEX  
215 EAST 7TH STREET  
DES MOINES, IOWA 50319-0231  
(515) 281-3592

WILLIAM P. ANGRICK II  
CITIZENS' AIDE / OMBUDSMAN

In reply, please refer to:

June 20, 1996

Mike Gronstal, Chair  
Service Committee  
Iowa Legislative Council  
LOCAL

Dear Senator Gronstal:

I was advised by telephone early Monday morning that the Department of Natural Resources (DNR) is choosing not to renew the contract with my office to perform the federally mandated duties of the Small Business Ombudsman under the Clean Air Act of 1990. Copies of the subsequent letter and my response are attached.

Effectively this means the monies available to perform those duties expire June 30, 1996.

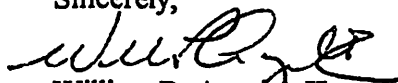
We have ongoing investigations and other important responsibilities that Iowa's small businesses are counting upon us to appropriately complete.

Therefore, with Service Committee and, if necessary, Legislative Council approval, I intend to modify the office of Citizens' Aide/Ombudsman Table of Organization previously submitted to incorporate Kristie Hirshman, effective July 1, 1996, retaining her as an employee of the office paid from the Council approved office budget. She has been paid from the DNR grant monies.

We can do that at this time because there currently is a 1.0 FTE vacancy in our table of organization. That position is Citizens' Aide/Ombudsman Secretary and I propose reallocating the monies previously designated for that position to maintaining Ms. Hirshman as an employee in the position of Assistant II, Grade 32 Step 2. With this action I have advised Diane Schinkel, the small business ombudsman intern, that money will not be available for her position after June 30, 1996 and I will not be hiring another Olsten temporary employee as previously reported in my June 14, 1996 letter.

Please let me know if you or any member of the Service Committee have questions or require additional information.

Sincerely,



William P. Angrick II

Enclosures

WPA:jg

jun96sc

STATE OF

IOWA

ERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

LARRY J. WILSON, DIRECTOR

June 17, 1996

William P. Angrick  
Citizens' Aide/Ombudsman  
LOCAL

Post-It™ brand fax transmittal memo 7671		# of pages	1
To	Bill ANGRICK	From	Larry WILSON
Co.		Co.	
Dept.		Phone #	1-3388
Fax #	8-6007	Fax #	

Dear Mr. Angrick:

You may be aware that legislation creating a compliance and permit assistance team will became law on July 1 of this year. The date coincides with the expiration date of the agreement between your agency and the DNR which funds an ombudsman for small business stationary sources. The agreement is pursuant to Section 507 of the Clean Air Act Amendments of 1990.

This letter is to advise you that the agreement, number 96-7230-04, will not be extended past the expiration date of June 30, 1996.

We have checked with other states who have established the position within their department and learned that it has worked successfully. We will be including this responsibility as a portion of the duties of the compliance and permit assistance team. This team will be assigned to the Director's office and will report directly to me.

Thank you for your part in making the agreement work over portions of the last two years.

Sincerely,

*Larry J. Wilson (for)*  
Larry J. Wilson

cc: Allen Stokes, Environmental Protection Division Administrator

STATE OF IOWA

CITIZENS' AIDE/OMBUDSMAN  
CAPITOL COMPLEX  
215 EAST 7TH STREET  
DES MOINES, IOWA 50319-0231  
(515) 281-3592



WILLIAM P. ANGRICK II  
CITIZENS' AIDE / OMBUDSMAN

In reply, please refer to:

June 17, 1996

Larry Wilson, Director  
Department of Natural Resources  
Wallace Building  
Local

Attn: Don Paulin

Dear Larry:

My staff and I were surprised and disappointed to learn this morning that the Department of Natural Resources is choosing not to renew the contract for the office of Citizens' Aide/Ombudsman to perform the duties of the Small Business Ombudsman Program.

Kristie Hirschman had been orally assured by Pete Hamlin, Chief, Air Quality Bureau during his visit to our office in late May that the contract would be renewed at the current budgetary level.

We have proceeded in good faith based upon Mr. Hamlin's advisement and have been working with various media and other vendors to fulfill the time critical responsibilities of informing Iowa's small businesses of the impending permit deadlines. I have immediately undertaken efforts to stay those obligations. However, if we incur any costs related to those activities which cannot be paid out of the current contract ending June 30, 1996, I will expect reimbursement to be made to my office by the DNR.

I have advised Kristie Hirschman, Small Business Ombudsman (SBO) and Diane Schinkel, SBO intern, that monies available for their employment ends June 30, 1996.

Please be advised that it is my responsibility, obligation and intention to complete those investigations about which you have been previously noticed. Activity on those investigations occurring after June 30, 1996, will be paid for out of the budget of the Citizens' Aide/Ombudsman. The authority to conduct those investigations has always rested in Iowa Code Chapter 2C.

I request that my office continue to be on the mailing list for all DNR environmental regulatory notices and documents. Timely receipt of this information insures that my staff and I can fulfill our statutory duties which as you know are independent of this contractual relationship.

June 17, 1996

In order to avoid any confusion regarding the independent role of the office of the Citizens' Aide/Ombudsman and the functions to be performed in-house at the DNR by the compliance and permit team, I formally request any identification of that function not include "ombudsman" in the title or description. Some states have found the term "advocate" works and this term would be acceptable to my office.

Thank you for the two week notification of your decision. It gives us time to respond and adjust. However, I do believe that the real "losers" from this abrupt action will be Iowa's small businesses.

Sincerely,

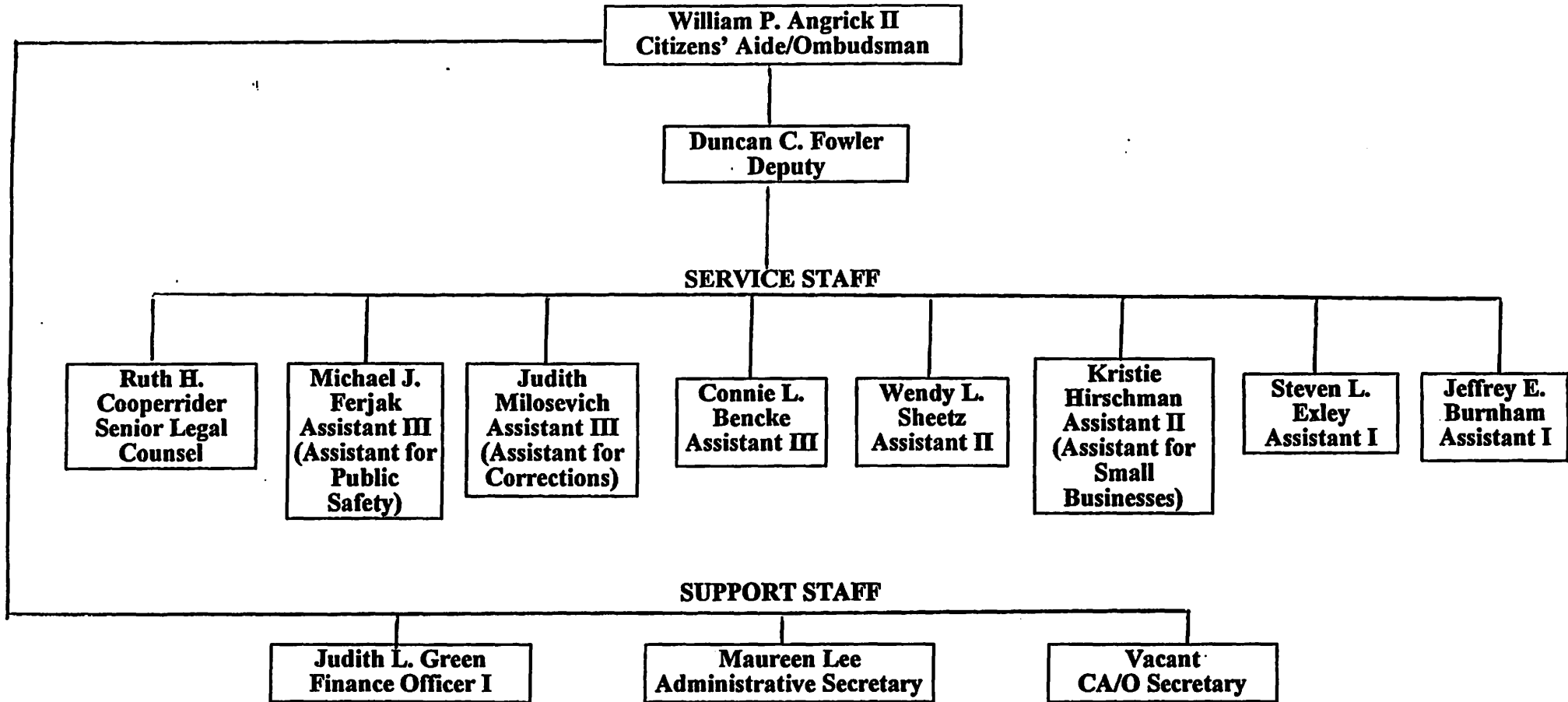


William P. Angrick II

WPA:ml

wangric\w4w\wilson

**OFFICE OF CITIZENS' AIDE/OMBUDSMAN  
TABLE OF ORGANIZATION**



TOjune96  
(Revised 6/20/96)

STATE OF IOWA



CITIZENS' AIDE/OMBUDSMAN  
CAPITOL COMPLEX  
215 EAST 7TH STREET  
DES MOINES, IOWA 50319-0231  
(515) 281-3592

WILLIAM P. ANGRICK II  
CITIZENS' AIDE / OMBUDSMAN

In reply, please refer to:

June 14, 1996

The Honorable Mike Gronstal  
Chair, Service Committee  
Legislative Council  
Capitol Building  
LOCAL

Dear Senator Gronstal:

I wish to submit the following for the June 20, 1996 Service Committee meeting.

**ADMINISTRATIVE REPORT**

The Clean Air Act Small Business Ombudsman program continues to progress. Copies of the program's quarterly reports issued since the June 1995 Legislative Council meeting are enclosed.

**LEGAL REPORT**

In February 1996 the Iowa Supreme Court decided the case of Citizens' Aide/Ombudsman v. Miller in favor of our office. The issue was the Ombudsman's access to the confidential investigatory files of the Board of Mortuary Sciences, a professional licensing board. This decision further clarifies and strengthens the Ombudsman powers and responsibilities with regard to accessing the information necessary to perform our duties. A copy of the decision is attached.

**MONTHLY PERSONNEL REPORT**

**Temporary Employee**

I reported the resignation of Patricia Nett, Administrative Secretary, and received approval for the promotion of Maureen Lee to that position at the November 29, 1995 Legislative Council meeting. The vacant CAO Secretary position created by this promotion has been filled on a temporary basis by Lo Duong, an employee of Olsten Staffing Services. Ms. Duong resigned on June 7, 1996 to move out of state. At the present time we anticipate hiring another Olsten employee on June 14, 1996 on a temporary basis.

**Merit Step Increases**

**Kristie Hirschman**, Assistant II (Assistant for Environmental Affairs), successfully completed her six month probationary period and was awarded a one step merit increase from Grade 32 Step 1 to Grade 32 Step 2 effective May 17, 1996.



**Ruth Cooperrider**, Senior Legal Counsel, successfully completed her annual employee evaluation and was awarded a one step merit increase from Grade 38 Step 1 to Grade 38 Step 2 effective June 14, 1996.

**Connie Bencke**, Assistant III, successfully completed her annual employee evaluation and was awarded a one step merit increase from Grade 35 Step 2 to Grade 35 Step 3 effective June 14, 1996.

**Promotion**

I request the following promotion approval:

<u>Employee Name &amp; Date of Hire</u>	<u>Position &amp; Date of Appointment</u>	<u>Current Grade/Step Date Attained</u>	<u>Anticipated Position</u>	<u>Anticipated Grade/Step &amp; Date Effective</u>
Steven Exley 09/16/91	Assistant I 06/17/94	29/5 06/16/95	Assistant II	32/4 06/14/96

Please let me know if you or any member of the Service Committee have questions or require additional information.

Sincerely,



William P. Angrick II

WPA:jg

Enclosures

scjun96



# Iowa Citizens' Aide/Ombudsman Office Small Business Ombudsman Program Quarterly Report

TO: Pete Hamlin, Chief, Air Quality Bureau, IDNR  
FROM: William P. Angrick II, Citizens' Aide/Ombudsman  
RE: Quarterly Report for Period ending June 30, 1995  
Date: September 1, 1995

---

## I. INTRODUCTION

The Citizens' Aide/Ombudsman office contracted, pursuant to Iowa Code Chapter 28E, with the Iowa Department of Natural Resources to provide the Small Business Ombudsman (ombudsman) services required in Section 507 of the Clean Air Act Amendments of 1990, effective December 1, 1994.

## II. STAFFING

The Citizens' Aide/Ombudsman's Office is staffed with the ombudsman, a deputy, legal counsel, six trained investigators, and three support staff. Additionally, a staff person, Craig Arterburn, was hired January 27, 1995 as an Assistant in the Citizens' Aide/Ombudsman office with the primary responsibility to carry out this office's responsibilities under Section 507 of the Clean Air Act Amendments of 1990. Mr. Arterburn resigned effective August 25, 1995 and there is an active search to fill the vacancy. In the meantime the duties of the position are being filled by Deputy Citizens' Aide/Ombudsman Duncan Fowler.

In May 1995, this office hired Diane Schinkle as a summer intern to assist Mr. Arterburn. Ms. Schinkle is a senior at Dordt College majoring in Environmental Studies. Ms. Schinkle returned to college on August 30, 1995 but will be assisting on various program projects throughout the school year.

## III. COMPLETION OF DUTIES

### REFERRALS TO THE IOWA AIR EMISSIONS ASSISTANCE PROGRAM (IAEAP)

The ombudsman program has referred 19 businesses to the IAEAP. Five referrals came from telephone inquiries. An average of two new contacts were received from small businesses attending each of the nine seminars coordinated by the ombudsman. The ombudsman has also disseminated information about IAEAP through the Small Business Development Center located on the Des Moines Area Community Campus in Ankeny. Development of the referral service is being implemented through the Small Business Development Centers and through the "Main Street USA" program of the Department of Economical Development.

### INVESTIGATIONS & RESOLUTIONS

Five complaints related to the Clean Air Program had been brought to the CA/O's office at the close of this quarter. Two complaints were resolved before this office's preliminary investigation was concluded. One complaint was withdrawn when the complainant decided to use the legal system to resolve the dispute. Two complaints are currently being reviewed.

### REVIEW OF FEDERAL AND STATE/LOCAL REGULATIONS

This quarter the ombudsman began a review of the regulations concerning property tax exemptions of equipment purchased for abating or eliminating pollution.

The ombudsman also reviewed proposed rules and rule modifications by the Department of Natural Resources concerning "permit by rule" and new deadlines.

Additionally, federal regulations and notice of proposed regulations were received from the EPA Small Business Ombudsman.

### MEETINGS, CONFERENCES & SEMINARS

- |                 |  |
|-----------------|--|
| April 4-7, 1995 | Training program with the Texas Small Business Advocate in Houston, Texas was attended by Mr. Arterburn. This training familiarized the ombudsman with the requirements of performing as small business ombudsman under the Clean Air Act. The Texas Small Business Advocate also assisted in identifying the components necessary to develop an outreach program. |
| May 10, 1995    | Mr. Arterburn attended a conference on Environmental Regulations and Compliance conducted by The Cambridge Institute. This seminar was helpful in educating the ombudsman with the types of regulations and enforcement activities facing small businesses in Iowa.  |
| Weekly          | US Small Business Administration contacts and business and industry associations are continuing to be identified. Of particular importance are the chambers of commerce, local development commissions and the <i>Main Street</i> programs. The ombudsman continues to develop and expand a comprehensive database of this information.                            |
| Weekly          | Forty-four chambers of commerce, development commissions, and/or Main Street program associations were informed about the Ombudsman's Office. These organizations were also made aware of the resources available through the Iowa Air Emissions Assistance Program, Iowa Department of Economic Development, and the Iowa Division of Labor.                      |
| As Scheduled    | Nine educational seminars were conducted throughout the state (Greenfield, Winterset, Newton, Charles City, Sioux City, Altoona, Clarinda, Red Oak/Shenandoah and Norwalk [attachment A]). Attendance at these seminars ranged from five to twenty-five.   |

### DISSEMINATION OF INFORMATION

Brochures explaining the Citizens' Aide/Ombudsman's Office (attachment B) and the *Small Business Ombudsman* (attachment C) are distributed through the educational seminars, direct mailings, chambers of commerce and other avenues.

Brochures, guidance documents, and pamphlets are solicited and received from Iowa Air Emission Assistance Program (IAEAP), Department of Natural Resources (DNR), Federal Small Business Administration (SBA), other state ombudsman offices, and the US Environmental Protection Agency (EPA). This information is reviewed for incorporation into future publications of the ombudsman office.

Seminars are coordinated by the ombudsman where a packet of information is provided to attendees about services provided by the Citizens' Aide/Ombudsman's Office, Iowa Division of Labor and the Iowa Air Emissions Assistance Program. This "Tool Box" of information includes:

1. Identification of the various offices important to regulated small businesses,
2. How to contact the various offices,
3. A listing of publications and video tapes available to the public,
4. Forms to request confidential services and inspections by Iowa Division of Labor, Office Of Occupational Safety And Health Administration (OSHA).

The "Tool Box" concept will be expanded to include additional appropriate information, such as permit contacts.

Radio and newspaper interviews (attachment D) have been conducted in Newton, Sioux City and Greenfield to explain why small businesses need to be aware of the requirements of the Clean Air Act.

CA/O has continued to pursue network connections with Department of Natural Resources to share documents and brochures expediently and to develop better communications.

The ombudsman responded to questionnaires from other states and EPA. These inquiries included program information, the office's authority, and investigative procedures. We have also supplied information on the need of financial assistance by small businesses for environmental compliance.

#### IOWA AIR EMISSIONS ASSISTANCE PROGRAM (IAEAP)

Discussions have taken place with IAEAP concerning guidance documents. The ombudsman will review publications submitted by the IEAP for evaluation of readability by small business owners and managers. The ombudsman continues to collect information from the small business community in order to identify other services small businesses need from IAEAP.

#### CLEAN AIR IMPACT REVIEW

A preliminary survey of financial institutions performed last quarter continues to be expanded with information from additional small businesses and financial institutions. A more complete review is anticipated to be performed later this year.

#### REPORTS

Quarterly progress reports are completed and sent to Department of Natural Resources. Information considered important by the State Ombudsman is included in his Annual Report to the Governor, Iowa Legislature and the public.

#### IV. ISSUES OF CONCERN

Several issues were brought to the attention of the ombudsman by spokespersons for chambers of commerce, development commissions, financial institutions and small businesses.

- 1) *Mistrust of Governmental Regulation.* A common attitude found among small business owners and their spokespersons is a distrust about governmental regulation and the motives of government in pollution abatement. This belief contributes to an unwillingness on the part of small businesses to seek information about their pollution abatement responsibilities and to participate in voluntary compliance, permitting and technical assistance programs.

We have two areas of concerns about this issue. First, it has been observed that applicants may be purposely withholding information when completing permit applications. They withhold the information not wanting to "give too much" to the government. This causes the applications to be incomplete or inaccurate and requires DNR review staff to return the applications for more or correct information. This has contributed to the backlog in processing permit applications as the majority of applications must be reviewed multiple times by DNR staff before they are complete.

Second, DNR has recently, (9/1/95), received primacy from the Federal Government over the management of the Clean Air Act in Iowa. Voluntary applications will not be accepted after January 1, 1996 and future applicants will have to comply with the more complicated and rigorous Title V application procedures. We are concerned that too many small business owners in Iowa are not making efforts to come into compliance with the Clean Air Act laws and regulations. It appears that many small businesses believe that if they keep a low profile, the regulators and enforcement agents will not knock on their door when the state begins to take the required enforcement actions in 1996. Those not in compliance may be forced to make too quick and perhaps overly costly business decisions because they lost valuable time necessary to be able to fully consider the most economical way they can comply with the law.

2. *Financing of Environmental Compliance.* Frequently compliance with environmental regulations only involves simple additional record keeping, registering with an agency or modification of a manufacturing process. However, it is not uncommon for a business to purchase new equipment that is not designed specifically for the elimination or abatement of pollution. Yet, the purchase is still necessary in order for the business to be in compliance with environmental regulations. An example is the dry cleaner who cannot achieve emission standards without new dry cleaning equipment with lower chemical emissions, even though the current equipment is in good shape and has not been fully amortized. Unfortunately for the small business owner, this results in not only an expenditure for new equipment but an unfavorable tax situation as well because the new equipment itself has taxing consequences.
3. *Environmental Loans to Small Business.* There is an apparent reluctance on the part of financial institutions to finance required environmental purchases for small businesses. The lack of a program such as the *Underground Storage Tank Insurance Program and Loan Guarantee Program* discourages lending institutions from making *environmental compliance* loans to these small businesses.
4. *Understandability of Forms.* A frequent complaint we have received by small businesses is that the forms from governmental agencies are difficult to understand and

complete. One of the impacts of this problem was mentioned in our discussion of our first concern.

5. *Multiple Department Jurisdiction.* We have received several concerns about multiple jurisdiction of departments over the same area and the alleged limited lack of communications between these agencies. One example is the perception of the mixed authority between Iowa Occupational Health and Safety and DNR regarding workplace air quality and air emissions. Resolving a problem with one agency could well place a business in conflict with the other.

Carter/DNR/DNR-QRT3



# Iowa Citizens' Aide/Ombudsman Office Small Business Ombudsman Program Quarterly Report

TO: Pete Hamlin, Chief, Air Quality Bureau, IDNR  
FROM: William P. Angrick II, Citizens' Aide/Ombudsman *WPA*  
RE: Quarterly Report for Period ending September 30, 1995  
Date: November 8 1995

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## I. INTRODUCTION

The Citizens' Aide/Ombudsman Office contracted, pursuant to Iowa Code Chapter 28E, with the Iowa Department of Natural Resources to provide the Small Business Ombudsman (ombudsman) services required in Section 507 of the Clean Air Act Amendments of 1990, effective December 1, 1994.

## II. STAFFING

The Citizens' Aide/Ombudsman's Office is staffed with the ombudsman, a deputy, legal counsel, six trained investigators, and three support staff. Additionally, a staff person, Craig Arterburn, was hired January 27, 1995 as an Assistant Ombudsman for Environmental Affairs in the Citizens' Aide/Ombudsman Office with the primary responsibility to carry out this office's responsibilities under Section 507 of the Clean Air Act Amendments of 1990. Mr. Arterburn resigned effective August 25, 1995 and there is an active search to fill the vacancy. It is expected the position will be filled by mid-November. In the meantime the duties of the position are being filled by Deputy Citizens' Aide/Ombudsman Duncan Fowler.

In May 1995, Diane Schinkle was hired as a summer intern to assist Mr. Arterburn. Ms. Schinkle is a senior at Dordt College majoring in Environmental Studies. Ms. Schinkle returned to college on August 30, 1995 but will be assisting on various program projects throughout the school year.

## III. COMPLETION OF DUTIES

Because of the unexpected vacancy of the Assistant Ombudsman for Environmental Affairs position, this past quarter has been one of transition. We completed many commitments that were made by the former assistant for environmental affairs, began recruiting for the new assistant and began budget and program planning preparations for the next program year.

## INVESTIGATIONS & RESOLUTIONS

Not surprisingly, no new complaints that directly related to the Clean Air program were received this quarter. There were, however, 2 complaints that dealt with hog lots. One related to delays in getting a construction permit and the other was a person concerned about the proximity of a lagoon that was being built and her worry of having to move. In the first case, we facilitated getting the complainant and staff member at DNR together. In the complaint regarding the lagoon location, copies of the new regulations were sent to the complainant. We also helped complainants understand how to let legislators know about their concerns with current state laws.

It is not expected that we will receive many complaints about the Clean Air Act issues until enforcement actions begin later in 1996.

REVIEW OF FEDERAL AND STATE/LOCAL REGULATIONS

We continued our review of the regulations concerning property tax exemptions of equipment purchased for abating or eliminating pollution.

The ombudsman routinely reviewed proposed rules and rule modifications by the Department of Natural Resources.

Additionally, federal regulations and notice of proposed regulations were received from the EPA Small Business Ombudsman and reviewed.

MEETINGS, CONFERENCES & SEMINARS

- |                       |  |
|-----------------------|--|
| July 11, 1995         | Meeting with Red Oak and Shenendoah Chambers at Red Oak. Eight business men and women were in attendance.  |
| July 19, 1995         | Meeting with representatives of the Department of Economic Development and advised them how they could institute an informal complaint resolution mechanism for small businesses.  |
| July 20, 1995         | Meeting with Norwalk Chamber of Commerce. Twenty-five were in attendance.  |
| August 10 to 20, 1995 | The assistant ombudsman for environmental affairs, and the student intern staffed a booth at the Iowa State Fair along with the other members of the Citizens' Aide/Ombudsman Office. Educational information about the small business program and the ombudsman office in general was provided to approximately 25,000 persons. |
| August 14, 1995       | The assistant for environmental affairs and the deputy ombudsman met with staff at the Iowa Waste Reduction Center and DNR to ensure coordination of efforts and communication between programs.   |
| August 30, 1995       | The deputy met with representatives of DNR and the IWRC in Marshalltown to discuss ways to improve the permit application process.   |
| September 5, 1995     | Meeting with staff from the IWRC and DNR to again review the application process.  |



- September 21, 1995 Meeting with the Keokuk Rotary and Main Street organizations. Attendance was about 60.
- September 26, 1995 Meeting with the Region 7 EPA staff at our office. We received an overview of their agricultural assistance program and staffing changes that are occurring at their office.
- September 26, 1995 Meeting with members of the Belle Plaine Chamber of Commerce. Attendance was 3.
- Weekly US Small Business Administration contacts and business and industry associations are continuing to be identified. Of particular importance are the chambers of commerce, local development commissions and the *Main Street* programs. The ombudsman continues to develop and expand a comprehensive database of this information.
- Weekly Eight new contacts were made with chambers of commerce, development commissions, and/or Main Street program associations. They were informed about the Ombudsman's Office. These organizations were also made aware of the resources available through the Iowa Air Emissions Assistance Program, Iowa Department of Economic Development, and the Iowa Division of Labor.

#### DISSEMINATION OF INFORMATION

Brochures explaining the Citizens' Aide/Ombudsman's Office and the *Small Business Ombudsman* were attached to the last quarterly report. They continue to be distributed through educational seminars, direct mailings, chambers of commerce and other avenues. Information about the small business ombudsman program was disseminated at the Iowa State Fair in August.

Brochures, guidance documents, and pamphlets are solicited and received from Iowa Air Emission Assistance Program (IAEAP), Department of Natural Resources (DNR), Federal Small Business Administration (SBA), other state ombudsman offices, and the US Environmental Protection Agency (EPA). This information is reviewed for incorporation into future publications of the ombudsman office.

Seminars are coordinated by the ombudsman where a packet of information is provided to attendees about services provided by the Citizens' Aide/Ombudsman's Office, Iowa Division of Labor and the Iowa Air Emissions Assistance Program. This "Tool Box" of information includes:

- Identification of the various offices important to regulated small businesses,
- How to contact the various offices,
- A listing of publications and videotapes available to the public,

- Forms to request confidential services and inspections by Iowa Division of Labor, office of Occupational Safety And Health Administration (OSHA).

The "Tool Box" concept will be expanded to include additional appropriate information such as permit contacts.

Three newspaper articles appeared in local papers discussing the seminars. The communities were Shenendoah, Red Oak and Norwalk.

The ombudsman responded to questionnaires from other states and EPA. These inquiries included program information, the office's authority, and investigative procedures. We have also supplied information on the need of financial assistance by small businesses for environmental compliance.

#### CLEAN AIR IMPACT REVIEW

A preliminary survey of financial institutions performed last quarter continues to be expanded with information from additional small businesses and financial institutions. A more complete review is anticipated to be performed later this year.

#### IV. ISSUES OF CONCERN

Several issues were brought to the attention of the ombudsman by spokespersons for chambers of commerce, development commissions, financial institutions and small businesses. These were mentioned in the last quarterly report but the issues have not changed. They are re-capped here for reference.

1. *Mistrust of Governmental Regulation.* A common attitude found among small business owners and their spokespersons is a distrust about governmental regulation and the motives of government in pollution abatement. This belief contributes to an unwillingness on the part of small businesses to seek information about their pollution abatement responsibilities and to participate in voluntary compliance, permitting and technical assistance programs.
2. *Financing of Environmental Compliance.* Often the small business owner must purchase new equipment or incur other capital expenditures to come into compliance with the provisions of the Clean Air Act. Unfortunately there is not a readily identifiable financing or loan mechanism available to assist the small business owners in financing their efforts to come into compliance. And there is an unfavorable tax situation as well because the new equipment itself has taxing consequences.
3. *Environmental Loans to Small Business.* There is an apparent reluctance on the part of financial institutions to finance required environmental purchases for small businesses.
4. *Understandability of Forms.* It is estimated that eighty-five percent of all construction permit applications received by DNR are returned to the applicant for additional information. If forms and permit applications are easily understood by those who have to fill them out logically there is a significantly higher probability that the forms will be accurately completed and be able to be processed by DNR staff without having to return them to the applicant for supplemental information.



# Iowa Citizens' Aide/Ombudsman Office Small Business Ombudsman Program Quarterly Report

**TO:** Pete Hamlin, Chief, Air Quality Bureau, IDNR  
**FROM:** William P. Angrick II, Citizens' Aide/Ombudsman  
**RE:** Quarterly Report for Period ending December 15, 1995  
**Date:** January 3, 1996

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## I. INTRODUCTION

The Citizens' Aide/Ombudsman Office contracted, pursuant to Iowa Code Chapter 28E, with the Iowa Department of Natural Resources to provide the Small Business Ombudsman (ombudsman) services required in Section 507 of the Clean Air Act Amendments of 1990, effective December 1, 1994.

## II. STAFFING

The Citizens' Aide/Ombudsman's Office is staffed with the ombudsman, a deputy, legal counsel, six trained investigators, and three support staff. Additionally, a staff person, Craig Arterburn, was hired January 27, 1995 as an Assistant Ombudsman for Environmental Affairs in the Citizens' Aide/Ombudsman Office with the primary responsibility to carry out this office's responsibilities under Section 507 of the Clean Air Act Amendments of 1990. Mr. Arterburn resigned effective August 25, 1995. The duties of the position were filled by Deputy Citizens' Aide/Ombudsman Duncan Fowler until November 13, 1995. At that time, Kristie Hirschman was hired to fill the position of Assistant Ombudsman for Environmental Affairs. Ms. Hirschman and her husband recently sold their company Organic Technologies Corporation, a regional composting company. She brings to the position 18 years experience as a small business owner.

In May 1995, Diane Schinkle was hired as a summer intern to assist Mr. Arterburn. Ms. Schinkle is a senior at Dordt College majoring in Environmental Studies. Ms. Schinkle returned to college on August 30, 1995 but will be assisting on various program projects throughout the school year. It is anticipated Ms. Schinkle will assist Ms. Hirschman during the college Christmas break.

## III. COMPLETION OF DUTIES

Because of the unexpected vacancy of the Assistant Ombudsman for Environmental Affairs position, the last half of 1995 has been one of transition. Mr. Fowler and staff completed many commitments that were made by the former assistant for environmental affairs, advertised, interviewed and hired the new assistant and began budget and program planning preparations for the next program year. Orientation and training for the new assistant is on-going.

The progress toward achieving the quarterly activities are formatted according to the outline in the October 1995 - June 1996 workplan, (section C, page 3).

## 1. Outreach

We [William Angrick, Duncan Fowler, Kristie Hirschman and office staff] have accomplished the outreach requirements through meetings, phone contacts, dissemination of print material, and personal contacts. They include:

A. Spending December 11, 1995 at the Iowa Waste Reduction Center. This outing included an on-site audit of a machine shop and meetings with all the Air Emissions staff. A copy of IWRC's survey regarding how businesses acquire their environmental knowledge was acquired and will be most helpful in evaluating future public relations programs.

B. Designing and presenting a supplemental budget to fund the development and implementation of an educational outreach program to the Iowa Department of Natural Resources for approval. The funding will be used to formulate and execute an outreach program that:

- Makes small businesses aware of their Clean Air Act obligations;
- Makes small businesses aware of the IWRC and SBO resources and efforts to help them;
- Raises the sense of urgency in small businesses about complying with air emission requirements;
- Raises image and logo identification of IWRC and the SBO to the point of common familiarity;
- Identifies communication methods and strategies to help the IWRC and SBO overcome apprehensions small businesses have regarding government. This should assist in obtaining compliance;
- Identifies future "outreach" opportunities and;
- Identifies and proposes measurements or tools that can be implemented by the IWRC and SBO that can gauge their success in implementing the educational/outreach plan. Ideally the measurements or tools will also help be able to assist the SBO in continual re-evaluation of it's approach.

C. Submitting an article for publication in the spring issue of the Iowa Department of Natural Resources' publication *Air Currents*.

D. Attended an Air Quality Bureau staff meeting on November 21, 1995.

E. Met December 14, 1995 with Elizabeth Henderson and Mark Lorenzo at the Iowa Department of Economic Development to discuss job descriptions and program development.

F. Participated in a meeting of the Governor's Competitiveness Task Force Regulatory Reform Sub-Group. The group focused on the environmental permitting process of the

Environmental Protection Division (EPD) of the Iowa Department of Natural Resources (IDNR). Reviewed their consultant's report.

G. Provided brochures for distribution at the Iowa Farm Bureau's annual convention.

H. Attended the November Environmental Protection Committee meeting.

I. Contacted Polk and Linn County air quality staff to exchange information.

J. Met December 4, 1995 with Conrad Lawler, Iowa Small Business Administration director, and his staff regarding publicizing our office and providing Pollution Control Loans (PCL) for financing air pollution abatement equipment. The SBA agreed to distribute informational material regarding our office and the Clean Air Act requirements as they relate to small businesses in informational packets they distribute. They also agreed to track PCL loan applications for our records. Their *SCORE* newsletter will include an article about the Small Business Ombudsman and our services.

K. Contacted the Iowa Banker's Association to request publication of a news release in their newsletters. Will be submitting articles first quarter of 1996.

L. Met December 1, 1995 with Ben Swartz at the Small Business Development Center (SBDC) in Des Moines. Introduced our services to Mr. Swartz and discussed loan availability for air pollution control equipment. Our office will be speaking at the SBDC's annual convention in January.

M. Citizens' Aide/Ombudsman Bill Angrick spoke to the Altoona Chamber of Commerce on December 6, 1995 about the Small Business Ombudsman program.

N. Deputy Citizens' Aide/Ombudsman Duncan Fowler attended the quarterly meeting of SCORE representatives on December 21, 1995 and disseminated information about our program.

## 2. Education

A number of the items previously listed can be considered educational in nature. Specifically addressed in the work plan is the development of a Permits Requirements book in cooperation with the Iowa Department of Economic Development (IDED). After visiting with Elizabeth Henderson at IDED, plans are to proceed with this project after the first of the year.

## 3. Complaint Resolution

No new complaints directly relating to the Clean Air program were received this quarter. It is not expected that we will receive many complaints about the Clean Air Act issues until enforcement actions begin later in 1996.

## 4. Regulation and Law Review

We have attended meetings of the Administrative Rules Review Committee on a monthly basis to remain abreast of issues as they relate to environmental regulations and small businesses. On November 28, 1995, Kristie Hirschman spent the afternoon with Joe Royce, Legal Counsel for the Administrative Rules Review Committee, to become acquainted with the rule making process in Iowa.

### 5. Legislative Agenda

We continued review of the regulations concerning property tax exemptions of equipment purchased for abating or eliminating pollution. After researching the financial programs available in Iowa for funding air pollution equipment and related tax breaks, two proposals were submitted for bill drafting to the Legislative Service Bureau. The proposals were reviewed by CA/O Legal Counsel, Ruth Cooperrider. The proposals are:

**AMEND SALES TAX EXEMPTION regulations to include:**

- a. deleting or changing the words *directly* and *primarily*.
- b. service industries affected by the Clean Air Act.

As the present system exists, sales tax exemption regulations exclude a number of the businesses affected by the Clean Air Act.

Equipment purchases by a number of businesses impacted by the air emission standards, including dry cleaners, auto body shops, and printers, would not be exempt because they are not considered manufacturers, nor in many instances is the equipment purchased primarily for pollution control but rather to update their technology.

Changing the sales tax exemption parameters are economically viable as the changes will help only a select group of small businesses whose expenditures to meet the Clean Air Act will not be high \$ but are significant for a business their size. Subsequently, broadening exemption guidelines will not have a significant impact on state budgets and will lessen the burden of compliance. While these changes are attractive because they require no appropriations, they may reduce state revenue.

**AMEND PROPERTY TAX EXEMPTION regulations to include:**

- a. deleting or changing the word *primarily*.
- b. process changes.

To a limited degree the parameters used to determine property tax exemption are flawed. The sections of the code which need clarified. As it currently reads, the law eliminates qualification for a number of businesses which update their processes and thanks to technology not only have a more efficient, updated methodology, but now also meet and exceed air quality standards. The word *primarily* needs to be changed as it is subjective and not always applicable to the equipment/processes which abate air pollution.

### **COMPARATIVE STATE LEGISLATION AND REGULATIONS:**

Louisiana - In order to qualify, the pollution control device or system must demonstrate either (1) a net decrease in the volume or toxicity or potential hazards of pollution as a result of the installation of the device or system; or (2) that installation is necessary to comply with federal or state environmental laws or regulations. (1991 House Bill 1242)

After visiting with other states, staff at the Iowa Waste Reduction Center, area bankers, and businesses, we made the decision not to seek additional appropriations to fund a separate loan program for air pollution equipment at this time. We identified the lack of utilization of the Pollution Control Loan offered by the Small Business Administration in

Iowa. The logical approach is to publicize this loan program and to encourage its use rather than create another program. This will require the development of a stronger working relationship with the SBA and promotion of the loan program.

We have reviewed proposed rules and rule modifications by the Department of Natural Resources. We also participated in meetings of the task force reviewing construction permits.

Additionally, federal regulations and notice of proposed regulations were received from the EPA Small Business Ombudsman and reviewed. Ms. Hirschman participated in a conference call which included Small Business Ombudsman from around the country and the Environmental Protection Agency's Small Business Ombudsman, Karen Brown. Information was exchanged regarding specific concerns, programs, and the upcoming national conference.

#### 6. Problem and Issue Identification and Resolution

As previously stated, contacts have been established with the financing community to resolve the funding shortage. This will continue to be an on going process.

In regard to permit applications, we have been attending the task force meetings which are reviewing the construction permits. The Title V permits are still being studied.

Again, the most apparent and reoccurring issue is the lack of knowledge among small businesses as to their responsibilities and obligations as they relate to the requirements of compliance with the Clean Air Act amendments. For this reason, the supplemental budget request to develop and implement an educational outreach program was designed and presented to the Iowa Department of Natural Resources for approval.

#### 7. Program and Grant Administration

The position of assistant ombudsman for environmental affairs was filled on November 13, 1995 with the hiring of Kristie Hirschman. Over the course of the next few months, Ms. Hirschman will be completing the required and recommended training programs.

The ombudsman responded to questionnaires from other states and EPA. These inquiries included program information, the office's authority, and investigative procedures. We have also supplied information on the need of financial assistance by small businesses for environmental compliance.



# Iowa Citizens' Aide/Ombudsman Office Small Business Ombudsman Program Quarterly Report

TO: Pete Hamlin, Chief, Air Quality Bureau, IDNR

FROM: William P. Angrick II, Citizens' Aide/Ombudsman

RE: Quarterly Report for Period ending March 1, 1996  
(Covers January 1 through February 29)

Date: March 15, 1996

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## I. INTRODUCTION

The Citizens' Aide/Ombudsman Office contracted, pursuant to Iowa Code Chapter 28E, with the Iowa Department of Natural Resources to provide the Small Business Ombudsman (ombudsman) services required in Section 507 of the Clean Air Act Amendments of 1990, effective December 1, 1994.

## II. STAFFING

The Citizens' Aide/Ombudsman's Office is staffed with the ombudsman, a deputy, legal counsel, six trained investigators, and three support staff. Kristie Hirschman was hired as an Assistant Ombudsman for Environmental Affairs in the Citizens' Aide/Ombudsman Office with the primary responsibility to carry out this office's responsibilities under Section 507 of the Clean Air Act Amendments of 1990.

In May 1995, Diane Schinkle was hired as a summer intern to assist Mr. Arterburn. Ms. Schinkle is a senior at Dordt College majoring in Environmental Studies. Ms. Schinkle returned to college on August 30, 1995 but will be assisting on various program projects throughout the school year. It is anticipated Ms. Schinkle will assist Ms. Hirschman during the college spring break.

## III. COMPLETION OF DUTIES

The progress toward achieving the quarterly activities are formatted according to the outline in the October 1995 - June 1996 workplan, (section C, page 3).

### 1. Outreach

We [William Angrick, Duncan Fowler, Kristie Hirschman and office staff] have accomplished the outreach requirements through meetings, phone contacts, dissemination of print material, and personal contacts. They include:

- A. Approval of the supplemental budget to fund the development and implementation of an educational outreach program by the Environmental Protection Commission at the January meeting. A Request for Services was designed and distributed to over 130 potential respondents. Six responses were



received, of which three were asked to make presentations to the selection committee. The selection committee consisted of :

Gaye Wiekierak, Iowa Department of Natural Resources,  
Duncan Fowler, Deputy Ombudsman, Iowa Citizens' Aide Ombudsman\*  
Mark Trapani, Iowa Waste Reduction Center and  
Kristie Hirschman, Small Business Ombudsman.

\* William Angrick, Iowa Citizens' Aide/ Ombudsman substituted, due to illness, for Duncan Fowler at the finalist presentations.

Somnath Dasgupta, Iowa Waste Reduction Center also was present for the finalist presentations.

The responses and the presentations were judged on a point system based on a questionnaire developed by Kristie Hirschman. On February 7, the contract was awarded to State Public Policy Group (SPPG). A planning/information gathering meeting was held on February 12 at the offices of SPPG and attended by six representatives of SPPG, two from the Iowa Waste Reduction Center and Duncan Fowler and Kristie Hirschman from the CA/O office. This meeting in combination with numerous telephone and fax communiqués, have resulted in the formulation of three focus group meetings around the state. Invitations have been sent to legislators and small businesses encouraging them to attend. Officials from the CA/O and IWRC will attend to provide information regarding the Clean Air Act. The meetings are scheduled in Des Moines, Coralville, and Council Bluffs on March 13, 14, and 19 respectively.

B. Met with the Secretary of State, Paul Pate and staff regarding air issues.

C. Met with a number of legislators regarding pending and proposed legislation. After further discussions with trade associations and the Department of Revenue and Finance, our pending legislation which proposed modifications to the property and sales tax exemptions was withdrawn for additional study. Additional details can be found on page 3, under *Legislative Agenda*.

D. Attended Congressman Ganske's' Congressional hearing regarding regulatory reform at the Hotel Fort Des Moines. Kristie spoke briefly about the need to remember the significant impact Federal legislation has on small businesses and state regulatory agencies.

E. Met with Elizabeth Henderson of the Iowa Department of Economic Development and Brian Button of the Iowa Department of Natural Resources to discuss development of fact sheets, a fax back system, and a permit guide book.

F. Reviewed the Governor's Competitiveness Task Force Regulatory Reform Sub-Group's consultant's report. The group focused on the environmental permitting process of the Environmental Protection Division (EPD) of the Iowa Department of Natural Resources (IDNR). Provided input and discussion on this specific issue at a number of meetings, including those with legislators.

G. Provided 2000 additional inserts to the U.S. Small Business Administration for dissemination in their mailings.

H. Attended the January and February Environmental Protection Commission meetings. Kristie gave a brief overview of the Small Business Ombudsman's activities, past, present, and future, at the February meeting.

I. Spoke at the Small Business Development Center (SBDC) annual meeting in January at Ames. Directors from the various districts of the state attended. Presented information regarding the Small Business Ombudsman's duties.

J. The quarterly meeting with the Iowa Waste Reduction Center and the Iowa Department of Natural Resources was held on January 11. Items for discussion included staff changes and public comments on proposed rule changes.

K. Spoke to the Fairfield Manufacturers' Association regarding air quality issues. Somnath Dasgupta, IWRC, presented information regarding their services.

L. Completed the proposed budget and draft work plan to the IDNR for the 1996 - 1997 fiscal year. Our program was compared to others across the nation to analyze the budget needs. Also taken into consideration was the implementation of the educational outreach plan under development by SPPG.

M. Attended the IDNR's construction permit task force meeting at Marshalltown. (Editor's note: These meetings are exceptionally informational.)

N. Reviewed and commented on the new asbestos publication for Brian Button, IDNR.

O. Attended the Environmental Protection Commission's legislative reception.

P. Prepared, organized, and presented at the SBO/SBTAP national conference in San Diego. The conference was attended by almost 200 people. Kristie's presentation included a live Internet demonstration, "Surfing the Net", complete with Hawaiian shirt and lei. The presentation educated and illustrated to the audience how to use the Internet for information retrieval, compilation, and dissemination.

Q. Completed and submitted the annual EPA/SBO report. Program identification, budgets and activity descriptions were provided. A summation of all the reporting states will be available in early summer.

## 2. Education

A number of the items previously listed can be considered educational in nature. Specifically addressed in the work plan is the development of a Permits Requirements book in cooperation with the Iowa Department of Economic Development (IDED). Additional information for the construction of a permit book was collected in San Diego at the conference.

The design and publication of fact sheets was discussed at the task force meeting. Amy Christianson, Brian Button, Elizabeth Henderson and Kristie were appointed to a subcommittee to expedite the process.

## 3. Complaint Resolution

No new complaints directly relating to the Clean Air program were received this quarter. Ten callers were provided with information regarding issues associated with the Clean Air Act.

#### 4. Regulation and Law Review

We have attended meetings of the Administrative Rules Review Committee on a monthly basis to remain abreast of issues as they relate to environmental regulations and small businesses. Karen Brown, EPA Small Business Ombudsman, asked for a review of their Federal Register Notice on Information Collection Request.

#### 5. Legislative Agenda

We continued review of the regulations concerning property tax exemptions of equipment purchased for abating or eliminating pollution. After researching the financial programs available in Iowa for funding air pollution equipment and related tax breaks, two proposals were submitted for bill drafting to the Legislative Service Bureau. The proposals were reviewed by CA/O Legal Counsel, Ruth Cooperrider. The proposals included amending the sales tax exemption and property tax exemption parameters. After discussions with members of the House Ways and Means committee, staff from the Department of Revenue and Finance, and affected trade associations, our office chose to table the bill for the time being. A number of factors contributed to this decision. They included:

- The desire by Revenue and Finance to have the exemptions in a separate statute.
- The large number of tax exemption bills/requests still in committee, and
- The need to focus energy on higher priority legislative issues such as the environmental audit bill, HF 420.

We have reviewed proposed rules and rule modifications by the Department of Natural Resources. We also participated in meetings of the task force reviewing construction permits.

#### 6. Problem and Issue Identification and Resolution

Encouraging and informing the financing community will continue to be an on-going process.

In regard to permit applications, we have been attending the task force meetings which are reviewing the construction permits. The Title V permits are still being studied.

Again, the most apparent and reoccurring issue is the lack of knowledge among small businesses as to their responsibilities and obligations as they relate to the requirements of compliance with the Clean Air Act amendments. For this reason, the supplemental budget request to develop and implement an educational outreach program was designed and presented to the Iowa Department of Natural Resources for approval. It is our belief the focus groups will be a major step towards opening lines of communication and that ultimately the plan and its implementation will provide the knowledge and motivation for small businesses to comply with the Clean Air Act.

#### 7. Program and Grant Administration

The position of assistant ombudsman for environmental affairs was filled on November 13, 1995 with the hiring of Kristie Hirschman. Over the course of the next few months, Ms. Hirschman will be completing the required and recommended training programs. To date, the EPA Small Business Ombudsman and Small Business Technical Assistance conference has been completed. The National Certified Investigator Training through the Council on Licensure, Enforcement, and Regulation is scheduled for March 4 through March 7 and the 40 hour mediation training is scheduled for September.

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IN THE SUPREME COURT OF IOWA

No. 17 / 94-1954

Filed February 14, 1996

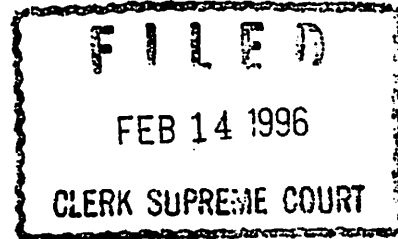
CITIZENS' AIDE/OMBUDSMAN,

Appellee,

vs.

HARRIETT MILLER, as Board  
Administrator for the Iowa  
Board of Mortuary Science  
Examiners,

Appellant.



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Appeal from the Iowa District Court for Polk County, Robert A. Hutchison, Judge.

Appeal from trial court order enforcing subpoena. **AFFIRMED.**

Thomas J. Miller, Attorney General, Julie F. Pottorff, Deputy Attorney General, and Linny Emrich, Assistant Attorney General, for appellant.

Ruth H. Cooperrider, Legal Counsel, Office of Citizens' Aide/Ombudsman, Des Moines, for appellee.

Considered by McGiverin, C.J., and Harris, Lavorato, Neuman, and Andreasen, JJ.

**HARRIS, Justice.**

This case presents a classic conflict between two statutory schemes. For reasons it deemed good and sufficient, the legislature created a confidentiality requirement covering certain reports in the files of an administrative agency. In separate legislation the legislature later vested subpoena power in Iowa's citizens' aide/ombudsman (hereinafter citizens' aide). The clash here occurred when citizens' aide attempted to subpoena some of these confidential records, the question being which of the statutory schemes must yield to the other. We think, based on principles of statutory construction, the legislature intended for the investigatory power of citizens' aide to prevail over the confidential interest of the agency. We therefore affirm a trial court ruling so holding.

The matter arose during a routine citizens' aide investigation. Citizens' aide sent a letter to defendant administrator for the board of mortuary science examiners requesting information regarding the board's failure to pursue a complaint filed by Pocahontas County. The complaint regarded a claim of professional misconduct by Gary Smith, a licensed funeral director. The county thought misconduct may have occurred concerning Smith's refusal to perform burial services for indigent residents below cost.

The assistant attorney general representing the board replied that the board had voted to close the matter due to lack of probable cause and that the county's counsel would be formally informed of this disposition by letter. The assistant attorney general then stated that other details regarding the investigation were confidential under the laws governing licensing boards. The board did send the letter to the county's counsel explaining its decision not to pursue the complaint.

The board indicated as a matter of policy funeral directors were not required to perform services below actual cost.<sup>1</sup>

Not satisfied, citizens' aide sent another letter to the board requesting reconsideration of the decision. Citizens' aide stated its access to confidential information extended to investigative files of professional licensing boards, emphasizing that it was required<sup>2</sup> to maintain the confidentiality of this information. After receiving no response from the board, citizens' aide issued a subpoena, commanding the administrator of the board to appear with all relevant documents and give testimony regarding any investigation into the Pocahontas County complaint.

After a number of procedural attempts proved unsuccessful, the board filed a petition for judicial review to enjoin enforcement of the subpoena. The matter then rested in procedural limbo for a year but was finally brought to a head when citizens' aide filed its own petition, seeking to compel enforcement of the subpoena. It asserted it was entitled to production of confidential investigatory

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<sup>1</sup>The county sought judicial review of the board's decision, and ultimately, we dismissed the matter on appeal, reasoning that Smith's subsequent death rendered the controversy moot. See Iowa S. Ct. Order No. 93-861, *Pocahontas County v. Iowa Bd. of Mortuary Science Examiners*, filed January 24, 1994.

<sup>2</sup>The board challenges this assertion, citing Iowa Code § 2C.8 (1993):

The citizens' aide may maintain secrecy in respect to all matters including the identities of the complainants or witnesses coming before the citizens' aide, except that the general assembly, any standing committee of the general assembly, or the governor may require disclosure of any matter and shall have complete access to the records and files of the citizens' aide. . . .

Citizens' aide takes the position, however, that this right to access is limited by the confidentiality provision of Iowa Code § 2C.9(3): "Confidential documents provided to the citizens' aide by other agencies shall continue to maintain their confidential status. The citizens' aide is subject to the same policies and penalties regarding the confidentiality of the document as an employee of the agency." Citizens' aide further notes that 141 Iowa administrative code ch. 3.10(2)(c) expressly states "confidential information provided by other agencies shall not be disclosed" to the general assembly, any standing committee of the general assembly, or the governor.

files pursuant to authority granted in Iowa Code sections 2C.9(3) and 2C.9(4) (1993). The board responded, claiming that Iowa Code section 272C.6(4) provides a statutory exemption to citizens' aide's subpoena powers.

As mentioned, the trial court ruled in favor of the subpoena power. The matter is before us on the board's appeal from that ruling. Our review is for correction of errors at law. Iowa R. App. P. 4. Because an agency's subpoena power is essentially a tool for discovery, we reverse the trial court only upon a showing of abuse of discretion. *Citizens' Aide/Ombudsman v. Grossheim*, 498 N.W.2d 405, 407 (Iowa 1993). An abuse of discretion may be shown when there is no record to support the court's factual conclusion or when the decision is based on clearly untenable reasons. *Id.*

I. The office of citizens' aide is an administrative agency for purposes of the Iowa administrative procedure Act (IAPA). *Citizens' Aide/Ombudsman v. Rolfes*, 454 N.W.2d 815, 816 (Iowa 1990). Such administrative agencies are vested with broad authority to issue subpoenas within their assigned fields of expertise. *Iowa City Human Rights Comm'n v. Roadway Express, Inc.*, 397 N.W.2d 508, 510 (Iowa 1986). An administrative subpoena will however not be judicially enforced unless it is "(1) within the statutory authority of the agency, (2) reasonably specific, (3) not unduly burdensome, and (4) reasonably relevant to the matters under investigation." *Id.* (citations omitted).

At issue here is the first of these requirements. Citizens' aide contends it is entitled to examine the board's investigative files pursuant to Iowa Code section 2C.9(3). The board counters that release of such information is barred under Iowa Code section 272C.6(4). In essence, this action involves a clash between the power to investigate and the right of confidentiality.

The board of mortuary science examiners was created in 1907. 1907 Iowa Acts ch. 140 § 2. Its function is to oversee licensure matters in the mortuary



science field. Iowa Code §§ 147.12, .13(14); *see also* Iowa Code § 272C.3-4. The board has the power under Iowa Code chapter 272C to investigate complaints concerning its licensees and to impose appropriate discipline. *See* Iowa Code § 272C.3. To conduct this function the board is given broad authority to conduct hearings and issue subpoenas to “compel the attendance of witnesses and the production of professional records, books, papers, correspondence and other records, whether or not privileged or confidential under law, which are deemed necessary as evidence in connection with a disciplinary proceeding.” Iowa Code § 272C.6(3). The release of information obtained by a licensing board during the course of an investigation is limited:

In order to assure a free flow of information for accomplishing the purposes of this section, and notwithstanding section 622.10, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of a licensing board or peer review committee acting under the authority of a licensing board or its employees or agents which relates to licensee discipline are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee and the boards, their employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline.

Iowa Code § 272C.6(4). Under certain circumstances investigative information regarding licensee discipline may be released to other appropriate licensing authorities, or to proper law enforcement agencies if the information indicates a crime has been committed. *Id.*

The office of citizens' aide was established in 1972. 1972 Iowa Acts ch. 1123 §2. Its purpose is to investigate complaints received “from any source concerning an administrative action” of a state agency. Iowa Code § 2C.12; *see also* Iowa Code § 2C.9(1). In order to conduct these investigations, citizens' aide has authority to “[r]equest and receive from each agency assistance and information as necessary in the performance of [its duties].” Iowa Code §

2C.9(3). Section 2C.9(3) also clarifies the scope of citizens' aide's investigatory powers, especially in regard to confidential information:

Notwithstanding section 22.7, pursuant to an investigation the citizens' aide may examine any and all records and documents of any agency unless its custodian demonstrates that the examination would violate federal law or result in the denial of federal funds to the agency. Confidential documents provided to the citizens' aide by other agencies shall continue to maintain their confidential status. The citizens' aide is subject to the same policies and penalties regarding the confidentiality of the document as an employee of the agency. The citizens' aide may enter and inspect premises within any agency's control and may observe proceedings and attend hearings, with the consent of the interested party, including those held under a provision of confidentiality, conducted by any agency unless the agency demonstrates that the attendance or observation would violate federal law or result in the denial of federal funds to that agency. This subsection does not permit the examination of records or access to hearings and proceedings which are the work product of an attorney under section 22.7, subsection 4, or which are privileged communications under section 622.10.

To enforce this power, citizens' aide may "[i]ssue a subpoena to compel any person to appear, give sworn testimony, or produce documentary or other evidence relevant to a matter under inquiry." Iowa Code § 2C.9(4).

II. The threshold question in any dispute over the meaning of a statute is whether it contains an ambiguity. If it does not, the statute will be applied in accordance with its plain meaning. *Consolidated Freightways Corp. of Delaware v. Nicholas*, 258 Iowa 115, 120, 137 N.W.2d 900, 904 (1965) (explaining when the language of a statute is plain and its meaning clear, construction is unnecessary and we are not permitted to look beyond the statute for its meaning).

The statutes here, considered separately, are not ambiguous. The controversy arises only when they are jointly brought to bear on the facts. We think this latent conflict satisfies the threshold requirement. We therefore proceed to a consideration of the rules of statutory construction.

The parties advance familiar rules of construction in support of their opposing positions. Some of the suggested rules compete with each other; in other instances the parties stand on the same rule but suggest conflicting

applications to the facts. They agree, as they must, that the ultimate goal of statutory interpretation is to give effect to the intent of the legislature. *Beier Glass Co. v. Brundig*, 329 N.W.2d 280, 283 (Iowa 1983); *see also* Iowa R. App. P. 14(f)(13) (stating, “[i]n construing statutes the court searches for the legislative intent as shown by what the legislature said, rather than what it should or might have said”).

Both parties claim support from Iowa Code section 4.8 in their respective interpretations of legislative intent. Section 4.8 explains “[i]f statutes enacted at the same time or different sessions of the legislature are irreconcilable, the statute latest in date of enactment by the general assembly prevails.” The board notes that Iowa Code chapter 2C (formerly chapter 601G) was enacted in 1972, whereas chapter 272C (formerly chapter 258A) was not enacted until 1977. 1977 Iowa Acts ch. 95 § 6. Thus the confidentiality provisions of chapter 272C should prevail. In contrast citizens’ aide notes that the original chapter 2C was amended several times, each time granting the citizens’ aide a broader scope of discovery. Section 2C.9(3) was amended to its present form in 1988. 1988 Iowa Acts ch. 1247 § 1. Thus the discovery power of section 2C.9(3) should prevail. We however need not resolve this dispute because Iowa Code section 4.7 overrides section 4.8 in matters of statutory construction. *State v. Halverson*, 261 Iowa 530, 537-38, 155 N.W.2d 177, 181 (1967). The significance of Iowa Code section 4.7 will be discussed later.

The board strongly urges that the legislative history of chapter 2C supports its claim. We are permitted to consider the legislative history when interpreting ambiguous statutory provisions. Iowa Code § 4.6(3). Prior to the present controversy the governor vetoed two bills that would have given citizens’ aide authority to access “*any record or document . . . which is required by law to be kept confidential.*” H.F. 2394 § 3(a); H.F. 2487 § 3(a) (emphasis added). This

amendment obviously would have granted citizens' aide authority to subpoena the records sought in the present case. The board suggests that the legislature's failed attempt to amend the law indicates an original intent that citizens' aide's subpoena power should yield to specific statutory exemptions such as the one involved here.

We think not. As is true with most courts, our decisions have fallen on both sides of this rule of interpretation. On one hand we observed that any material change in statutory language is presumed to indicate a change of rights. *State ex rel. Palmer v. Board of Supervisors of Polk County*, 365 N.W.2d 35, 37 (Iowa 1985); *Mallory v. Paradise*, 173 N.W.2d 264, 267 (Iowa 1969). On the other hand we recognized that some statutory amendments are intended only to clarify, rather than to change, what was legislative intent all along. *Barnett v. Durant Community Sch.*, 249 N.W.2d 626, 629 (Iowa 1977). Under the facts here we find nothing in the failed amendments that aid in the interpretation.

III. It is unnecessary to extend this opinion by further detailing all the arguments and counter arguments under the rules of construction. It is enough to rely on one of the most fundamental ones. To resolve this matter of statutory interpretation we first attempt to reconcile the two provisions. Iowa Code § 4.7 (stating "[i]f a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both"); see *Farmers Coop. Co. v. DeCoster*, 528 N.W.2d 536, 538 (Iowa 1995).

In *Grossheim* we dealt with similar tensions resulting from a citizens' aide investigation and resolved the dispute in favor of the investigation. We did so in great part by reconciling the investigatory rights with prison officials' need for confidentiality. To do so we relied on the continuing confidentiality of records in the hands of citizens' aide. 498 N.W.2d at 407.

Our holding in *Grossheim* was based on our understanding of legislative intent. Citizens' aide was created as a "watch dog" for state administrative agencies. To fulfill this role citizens' aide must have widespread access to agency's documentation. Significant here is the fact that a licensing board's investigative files maintain their confidential status even after obtained by citizens' aide. We assume (without deciding) that 141 Iowa Administrative Code chapter 3.10(2)(c) is a valid rule preventing disclosure of confidential information to the legislative or executive branches of government. We conclude that Iowa Code sections 2C.9(3) and 2C.9(4) grant citizens' aide access to licensing boards' investigation files otherwise deemed privileged and confidential under Iowa Code section 272C.6(4). This gives effect to both provisions.

It is unnecessary to resolve the parties' dispute in which both claim their statutory power is the "specific" one, entitled to the "specific prevails as an exception to the general" rule of Iowa Code section 4.7. Either way the rule requires that the two provisions must be reconciled if they can be. The reconciliation noted in *Grossheim* thus controls the outcome here. Certainly we can find no abuse of discretion in the challenged trial court ruling, abuse being the standard of our review outlined in *Grossheim*. 409 N.W.2d at 407.

**AFFIRMED.**